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SAN FRANCISCO PORT COMMISSION

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REGULAR MEETING
4:00 P.M., TUESDAY, MARCH 14, 2000
Suite 3100, Ferry Building, S.F. CA 94111

AGENDA

1. **ROLL CALL**

2. **APPROVAL OF MINUTES** - February 22, 2000 Special & Regular Meeting

3. **EXECUTIVE**

   A. Executive Director's Report

      1) Teatro Zinzanni Opening
      2) Cruise Line Briefing
      3) Pier 1½ - 5 RFP
      4) Ballpark Schedule

   B. Resolution Designating the Plaza at the Main Entrance to Pacific Bell Ballpark located southeasterly of the intersections of King Street and Third Street as Willie Mays Plaza. (Resolution No. 00-18) (Staff report provided to the Commission.)

4. **CONSENT CALENDAR**

5. **MARITIME**

   A. Approval of First Amendment to the Non-Exclusive Management Agreement with Marine Terminals Corporation for Pier 80. (Resolution No. 00-19) (Staff report provided to the Commission.)

6. **REAL ESTATE**

7. **FACILITIES & OPERATIONS**

   A. Authorization to negotiate and execute a personal services contract with the Johns/Rife Group of San Francisco, for specialized move coordination services for the Port of San Francisco's move to Pier 1 in an amount not to exceed $90,000.00 (Resolution No. 00-20) (Staff report provided to the Commission.)

   B. Authorization to execute a contract modification to Contract No. 2613 to include the Alternate Bid Item "Breakwater" to the Downtown Ferry Terminal Project, in an amount not to exceed $3,497,760. (Resolution No. 00-21) (Staff report provided to the Commission)

3 1223 06446 3640

C. Authorization to advertise for competitive bids for Contract No. 2665, "Pier 48 Interior Fire Damage Repair." (Resolution No. 00-22) (Staff report provided to the Commission.)

D. Authorization to advertise for competitive bids for Contract No. 2666, "China Basin Shoreline Stabilization Project." (Resolution No. 00-23) (Staff report provided to the Commission.)

E. Authorization to award Contract No. 2664, "Hyde Street Harbor Landside Improvements Project," to the lowest responsive, responsible bidder, Proven Management, Inc. (Resolution No. 00-24) (Staff report provided to the Commission.)

8. PLANNING & DEVELOPMENT

A. Informational Report on Project Schedule and Formation of Advisory Group for the Pier 70 Opportunity Area Development Project. (Staff report provided to the Commission.)

B. Approval of Mission Creek Park Open Space Concept Design for area within Port Jurisdiction. (Resolution No. 00-25) (Staff report provided to the Commission.)

9. FINANCE & ADMINISTRATION

10. NEW BUSINESS / PUBLIC COMMENT

Public comment is permitted on any matter within Port jurisdiction and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. It is strongly recommended that public comments be submitted in writing so they can be distributed to all Commissioners for review. Please fill out a speaker card and hand it to the Commission Secretary. If you have any question regarding the agenda, please contact the Commission Secretary at 274-0406.

11. EXECUTIVE SESSION

A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

B. CLOSED SESSION

(1) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8. ***This session is closed to any non-City/Port representative.****

a. Property: Triangle Parking Lot (SWL 300/301)
Personal Negotiating: Port of San Francisco: Theresa Picon, Director of Real Estate
*Fisherman's Wharf Restaurant Association: Tim McDonnell

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to discuss real estate negotiations

between the Port and the Fisherman's Wharf Restaurant Association regarding Port property located at SWL 300/301.

b. Property: Jelly's – Dance Café at Pier 50
Person Negotiating: Port of San Francisco: Theresa Picon, Director of Real Estate
*Jelly's-A Dance Café: Ricci Cornell

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to discuss real estate negotiations regarding Jelly's – Dance Café at Pier 50.

c. Property: Red's Java House at Pier 30
Person Negotiating: Port of San Francisco: Theresa Picon, Director of Real Estate
* Red's Java House at Pier 30: Steve Reilly

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to discuss real estate negotiations regarding Red's Java House at Pier 30.

d. Property: Pier 94/96
Person Negotiating: Port of San Francisco: Peter Dailey, Maritime Director
*Vulcan: Bob Sears

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to discuss negotiations regarding cargo shipping operations at Pier 94/96.

e. Property: USS Iowa berthing @ Pier 80
Person Negotiating: Port of San Francisco: Peter Dailey, Maritime Director
*USS Iowa: Secretary of the Navy

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to discuss negotiations regarding berthing for the USS Iowa @ Pier 80.

f. Property: Union Pacific Railroad @ Pier 80
Person Negotiating: Port of San Francisco: Peter Dailey, Maritime Director
*Union Pacific Railroad: Bob Starzell

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to discuss negotiations with Union Pacific Railroad regarding the rail-right-of-way at Pier 80.

g. Property: Southern Waterfront
Person Negotiating: Port of San Francisco: Paul Osmundson, Director Planning and Development

2 50351 SFPL: ECONO JRS
45 SFPL 04/09/04 99

*RMC Lonestar @ Pier 80: Harry Peppart
*ISG Resources, Inc. @ Pier 90: Clint Kurtz
*Bode Gravel/Mission Valley Rock @ Pier 92: Dan Boardman
*British Pacific Aggregates, Corp. @ Pier 94/96: John Chambers
*Waste Management, Inc. @ Pier 70: Jack Isola
*Grosvenor Bus Lines, Inc. @ Pier 94/96: Ken Marciano

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to discuss real estate negotiations with the above-mentioned Southern Waterfront tenants.

h. Property: SS Lurline @ Pier 35
Person Negotiating: Port of San Francisco: Paul Osmundson, Director of Planning & Development
*SS Lurline: David Martin

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to discuss negotiations regarding financial terms with the berthing of the SS Lurline.

i. Property: Pier 30/32 and SWL 330
Person Negotiating: Port of San Francisco: Paul Osmundson, Director of Planning & Development
*San Francisco Cruise Terminal LLC: Glen Elkington

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to discuss negotiations with San Francisco Cruise Terminal LLC regarding the Bryant Street Pier Project.

j. Property: Rincon Park Restaurant at Folsom and Embarcadero
Person Negotiating: Port of San Francisco: Paul Osmundson, Director of Planning and Development
*Nice Ventures Inc.: Reed Hearon

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to discuss real estate negotiations regarding Rincon Park Restaurant at Folsom & Embarcadero.

12. RECONVENE IN OPEN SESSION

A. Possible report on actions taken in closed session pursuant to Government Code 54957.1 and San Francisco Administrative Code 67.14.
B. Vote in open session on whether to disclose any or all executive session discussions pursuant to Government Code 54957.1 and San Francisco Administrative Code 67.14.

13. ADJOURNMENT

Staff Reports: Explanatory Documents available to the public can be reviewed and copied at the Ferry Building, Suite 3100 or by contacting the Port Receptionist at 415-274-0400.

MARCH/APRIL 2000

CALENDAR OF UPCOMING PORT MEETINGS - OPEN TO THE PUBLIC

Date	Time	Group	Location
March 1	4:00 p.m.	BCDC/Port Commission Committee Meeting	Port Commission Room Ferry Building
March 2	3:00 p.m.	Maritime Advisory Committee	Port Commission Room Ferry Building
March 7 (**Tentative**)	9:00 a.m.	Fisherman's Wharf Waterfront Advisory Group	Scoma's Restaurant Pier 47
March 13	6:00 p.m.	Southern Waterfront Advisory Committee	Southeast Community 1800 Oakdale
March 14	4:00 p.m.	Port Commission	Port Commission Room Ferry Building
March 17	9:00 a.m.	Design Workshop Pier 27 Open Space	Pier 35 Cruise ShipTerminal
March 21	9:00 a.m.	Fisherman's Wharf Waterfront Advisory Group	Scoma's Restaurant Pier 47
March 21	11:00 a.m.	Waterfront Design Advisory Committee	Port Commission Room Ferry Building
March 23	4:00 p.m.	BCDC/Port Commission Committee Meeting	Port Commission Room Ferry Building
March 28	4:00 p.m.	Port Commission	Port Commission Room Ferry Building
April 11 (**Cancelled**)	4:00 p.m.	Port Commission	Port Commission Room Ferry Building
April 18 (**Special Mtg**)	3:00 p.m.	Port Commission	Port Commission Room Ferry Building
April 19 (**Cancelled**)	4:00 p.m.	BCDC/Port Commission Committee Meeting	Port Commission Room Ferry Building
April 25 (**Cancelled**)	4:00 p.m.	Port Commission	Port Commission Room Ferry Building
April 27	4:00 p.m.	BCDC/Port Commission Committee Meeting	Port Commission Room Ferry Building

NOTES:

The San Francisco Port Commission meets regularly on the 2nd and 4th Tuesday of the month at 4:00 p.m. Contact Amy Quesada at 274-0406 to be placed on the mailing list for Commission meeting agenda.

The Fisherman's Wharf Advisory Group meets regularly on the 3rd Tuesday of the month. The regular meeting time and place is 9:00 a.m. at Scoma's Restaurant, Pier 47, Fisherman's Wharf.

The Northeast Waterfront Advisory Group meets regularly on the 1st Wednesday of the month at 4:00 p.m. in the Port Commission Room, Ferry Building.

The Ferry Building Waterfront Advisory Group does not have any scheduled meetings.

The Southern Waterfront Advisory Group meets regularly on the 2nd Monday of the month at 5:30 p.m. in the Port Commission Room, Ferry Building.

The Rincon Point-South Beach CAC meets regularly on the 3rd Monday of the month, from 5:00-7:00 p.m. at the South Beach Yacht Club (Pier 40 on The Embarcadero). Please contact Tiffany Bohee at 749-2481 for more information.

Port Website
Check out the Port's Website at www.sfport.com

Questions/Contacts

Pier 45 Advisory Group	Kirk Bennett	274-0545
Northeast Waterfront Advisory Group	Kirk Bennett	274-0545
Ferry Building Waterfront Advisory Group	Alec Bash	274-0539
Bryant Street Pier Advisory Group	Anne Cook	274-0483
Southeast Waterfront Advisory Committee	Braj Norris	274-0540
Port of San Francisco Reception	Liz Fitzgerald	274-0400

ACCESSIBLE MEETING INFORMATION

The Port Commission office is located on the third floor of the Ferry Building, Suite 3100. The Port office is wheelchair accessible. Accessible seating for persons with disabilities (including those using wheelchairs) will be available. The closest accessible BART and MUNI Metro station is Embarcadero located at Market and Spear Streets. Accessible MUNI lines serving the Ferry Building are the 9, 31, 32 and 71. For more information about MUNI accessible services, call 923-6142.

Accessible parking is provided in the small parking lots adjacent to the Ferry Building; three spaces in the north lot and two spaces in the south lot. These spaces are usually full during business hours. Due to the ongoing construction of the Mid-Embarcadero Roadway Project there are currently no curbside passenger unloading and loading areas. The area of the north parking lot adjacent to the north building entrance should be used for this purpose. Parking is available at Rincon (Spear between Mission & Howard), One Market Plaza (Spear between Market & Mission), Embarcadero Center 4 (Clay between Davis & Drumm) and 50 California Garage (Sacramento between Davis & Drumm). There are two accessible entrances into the World Trade Center (north wing of the Ferry Building); one on the north and the main entrance on the west (Embarcadero). The west entrance is provided with two doors in series that can be operated automatically. Both entrances lead to the elevator lobby. The two elevators are accessible and lead to the third floor location of the Port of San Francisco's office, Room 3100. The ramp from the lobby to the third floor is too steep to be considered an accessible path of travel. Public restrooms and drinking fountains on the first floor of the World Trade Center (north wing of the Ferry Building) are accessible, as well as the central restrooms within the Port's office area.

Assistive listening devices are available for use in the Port Commission Meeting. The following services are available on request 72 hours prior to the meeting: (1) American Sign Language Interpreters; (2) A Sound Enhancement System; (3) The use of a reader during the meeting and (4) copies of the agenda or minutes of the meeting in alternative formats. Please contact Kevin Jensen, the Port's ADA Coordinator at (415) 274-0555. Late requests will be honored if possible. Please contact the Commission Secretary at (415) 274-0406 should you require large print of the agenda.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City accommodate these individuals.

Know Your Rights Under the Sunshine Ordinance. Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, please contact Rachel Arnstine O'Hara, Clerk of the Sunshine Ordinance Task Force at 554-6171; fax 554-6177; e-mail address Rachel_ArnstineO'Hara@ci.sf.ca.us; City Hall, Room 362, One Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Ordinance Task Force, the San Francisco Public Library and on the City's Website at www.ci.sf.ca.us.

San Francisco Lobbyist Ordinance. Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Admin. Code 16.520 – 16.534) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street, #701, San Francisco, CA 94102, phone (415) 554-9510 or fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
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www.sfport.com

MEMORANDUM

March 8, 2000

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Brian McWilliams, Vice President
Hon. Michael Hardeman
Hon. Denise McCarthy
Hon. Pius Lee

FROM: Douglas F. Wong
Executive Director

SUBJECT: Resolution Designating the Plaza at the Main Entrance to Pacific Bell Ballpark located Southeasterly of the Intersections of King Street and Third Street as Willie Mays Plaza (Resolution No. 00-18)

DIRECTOR'S RECOMMENDATION: APPROVE RESOLUTION

BACKGROUND

Supervisor Yaki proposed legislation urging the Port Commission to formally name 24 Willie Mays Plaza in honor of the baseball legend. This property is within the Port's jurisdiction and renaming requires Port Commission action. On February 27, 2000, the Board of Supervisors passed this resolution (No. 000340) and the Mayor will sign it.

Willie Mays has made numerous contributions to the history of baseball and to the city of San Francisco. He appeared in 24 All-Star games, holding the record, tied with Hank Aaron and Stan Musial for the most career appearances. Willie Mays holds more franchise career records than any other player. He spent 21 seasons as a member of the New York and San Francisco Giants. To this day he holds a position with the San Francisco Giants organization as Special Assistant to the President, making appearances at several community events throughout the Bay Area.

The construction of Pacific Bell Park and the plaza at China Basin will be complete in April 2000. The proposed address for Pacific Bell Park is "24 Willie Mays Plaza" in honor of Willie Mays' number, which was 24.

Attached is a map detailing the specific area for the proposed plaza.

Prepared by: Veronica Sanchez, Manager, Governmental Affairs

This Print Covers Calendar Item No. 3B

PORT COMMISSION
CITY & COUNTY OF SAN FRANCISCO

RESOLUTION NO. 00-18

WHEREAS, Willie Mays is recognized as one of the greatest players in baseball history and holds more franchise career records that any other player; and

WHEREAS, His record participation in 24 All-Star Games is tied with Hank Aaron and Stan Musial for the most career appearances; and

WHEREAS, Willie Mays wore a New York and San Francisco Giants uniform for 21 seasons; and

WHEREAS, Willie Mays currently holds a lifetime contract with the San Francisco Giants as Special Assistant to the President, and appears at a number of civic and charitable events throughout the Bay Area on behalf of the Giants; and

WHEREAS, A plaza within the Port's jurisdiction is being constructed as part of the Giants' Pacific Bell Ballpark Project at China Basin, scheduled to be completed in April 2000; and

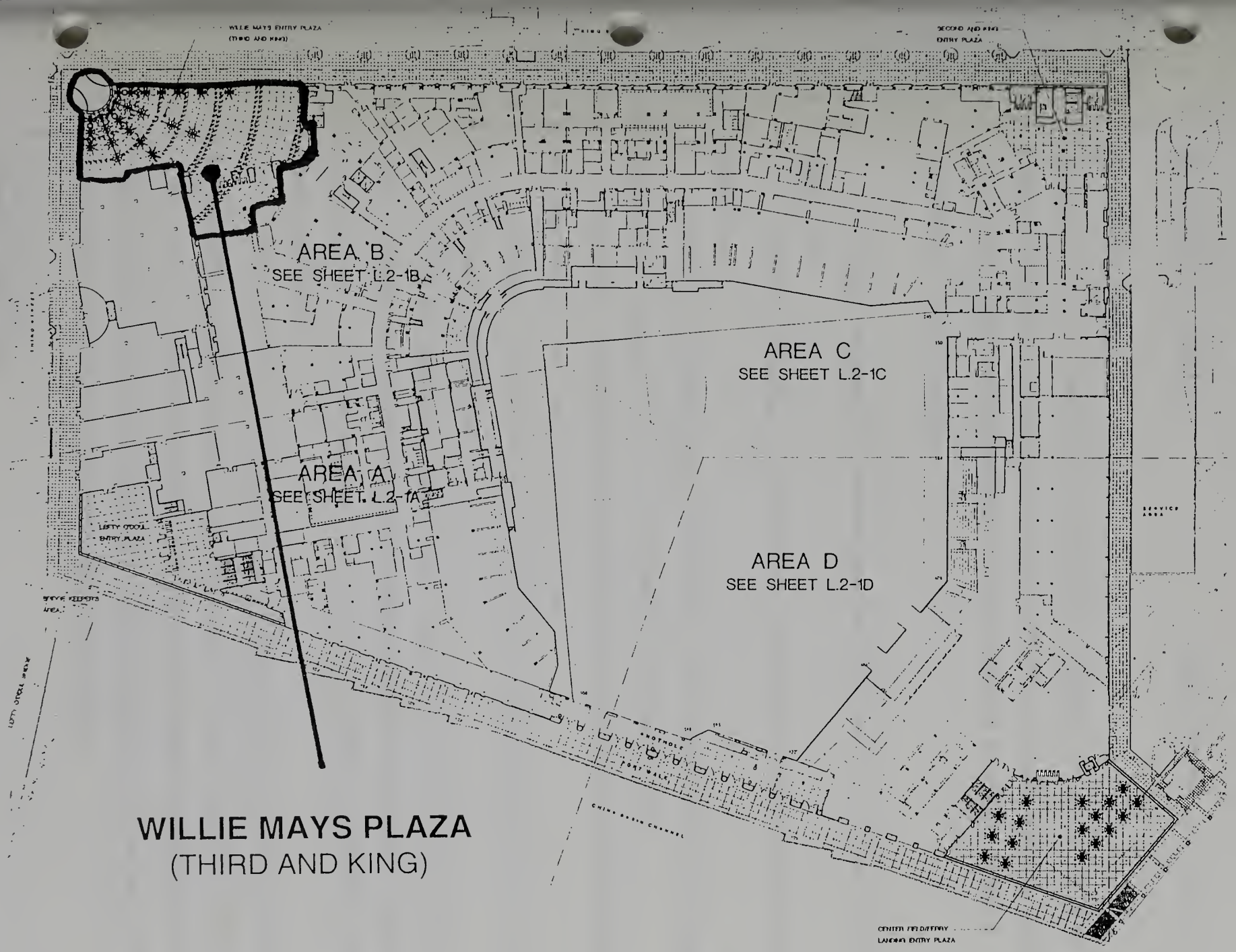
WHEREAS, The San Francisco Board of Supervisors urged the Port Commission to officially rename the south side of King Street bounded by Second and Third Streets 24 Willie Mays Plaza; now, therefore, be it

RESOLVED, That the San Francisco Port Commission designates the plaza at the main entrance to Pacific Bell Ballpark located southeasterly of the intersection of King Street and Third Street as "Willie Mays Plaza" and authorize the Executive Director to take all such further action as required to implement the naming of the plaza; and be it further

RESOLVED That the San Francisco Port Commission approves the proposed address for Pacific Bell Ballpark as "24 Willie Mays Plaza".

I hereby certify that the San Francisco Port Commission at its meeting of March 14, 2000 adopted the foregoing resolution.

_____
Secretary



WILLIE MAYS PLAZA
(THIRD AND KING)

FILE NO. 000340 RESOLUTION NO. _____

[24 Willie Mays Plaza]

URGING THE PORT COMMISSION TO OFFICIALLY RENAME THE SOUTH SIDE OF KING STREET BOUNDED BY SECOND AND THIRD STREETS TO 24 WILLIE MAYS PLAZA, AND REQUESTING THE DEPARTMENT OF PUBLIC WORKS TO ERECT DOUBLE SIGNAGE AT THIS LOCATION.

WHEREAS, Willie Mays is generally regarded as the best all-around player in baseball history; and,

WHEREAS, Willie Mays wore a New York and San Francisco Giants uniform for 21 seasons; and,

WHEREAS, Willie Mays holds more franchise career records than any other player, including games played, at-bats, runs, hits, doubles, and home-runs; and,

WHEREAS, "The Say Hey Kid" appeared in 24 All-Star Games, tied with Hank Aaron and Stan Musial for most career appearances; and,

WHEREAS, Inducted in the Hall of Fame in 1979, Mays was the ninth player inducted in the first year of eligibility; and,

WHEREAS, Willie Mays currently holds a lifetime contract with the San Francisco Giants as Special Assistant to the President, a position he has held since 1986, and appears at a number of civic and charitable events throughout the Bay Area on behalf of the Giants; now, therefore, be it

RESOLVED, That the Board of Supervisors of the City and County of San Francisco, in honor of the contributions that Willie Mays has made to the sport of baseball and to the city of San Francisco, does hereby urge the Port Commission to rename the south side of King Street bounded by Second and Third streets to 24 Willie Mays Plaza and request that the Department of Public Works erect double signage at this location.

SUPERVISOR YAKI
BOARD OF SUPERVISORS

PORT OF SAN FRANCISCO

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San Francisco, CA 94111
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Fax 415 274 0528
www.sfport.com

MEMORANDUM

March 7, 2000

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Brian McWilliams, Vice President
Hon. Denise McCarthy
Hon. Michael Hardeman
Hon. Pius Lee

FROM: Douglas F. Wong
Executive Director

SUBJECT: Approval of First Amendment to the Non-Exclusive Management Agreement with Marine Terminals Corporation for Pier 80

DIRECTOR'S RECOMMENDATION: APPROVE THE FIRST AMENDMENT TO THE NONEXCLUSIVE MANAGEMENT AGREEMENT WITH MARINE TERMINALS CORPORATION FOR PIER 80.

BACKGROUND

The Port entered into a five-year Nonexclusive Management Agreement with Marine Terminals Corporation on December 18, 1997. Under the terms of the Agreement, Marine Terminals Corporation ("MTC") operates the Port's Omni Terminal at Pier 80. Cargo operations were consolidated at Pier 80 in January of 1998 and the Pier 80 terminal now handles both container and breakbulk cargo. The relationship between MTC and the Port has been successful, with volume and revenue increases resulting from the addition of six new shipping lines. Prior to entering into an Agreement with MTC, the Port had a contractual relationship with Stevedoring Services of America ("SSA") to operate the cargo facility at Pier 94/96. MTC operated the Port's newsprint facility at Pier 27.

In the early 1990's the Port experienced significant business reversals at Pier 96 that reduced the volume of the shipping business and resulted in a loss of the needed critical mass necessary for SSA to break even financially. In June 1995, the Port Commission approved payment of a management fee to SSA to cover their anticipated losses. In 1997, with payments to SSA anticipated to exceed revenue from cargo operations, the Port began exploring other options for the terminal operations at the Port of San Francisco. This led to the eventual consolidation of operations at Pier 80 and the change to MTC as the terminal operator.

Under the current financial terms of the Agreement, MTC pays the Port an annual use fee of $400,000 per contract year to be paid monthly. MTC receives 100% of wharfage and dockage from shipping lines already under contract with the Port on January 1, 1998. The Port receives 50% of wharfage and 100% of dockage for shipping lines that came to the Port after January 1, 1998. Crane revenues are shared equally between MTC and the Port.

Port volumes have grown from 17,700 containers in 1997 to 39,500 in 1999, with occasional breakbulk calls for steel, newsprint, and rice. Revenue from cargo operations during the first year of the Agreement (Calendar Year 1998) was approximately $480,000 and increased to $625,000 in Calendar Year 1999.

The Port is proposing an amendment that includes items that were not addressed in the original Agreement that will ensure a division of revenue that is equitable and supports the economic viability of the Pier 80 cargo operation. Specifically, the amendment addresses the rights of MTC to allow the use by third parties of portions of the premises not directly used by MTC for cargo vessel operations and outlines the division of revenue from such use, clarifies certain rent credit issues related to further compensation to MTC, increases crane rental compensation received by the Port, and provides for reimbursement to MTC for specific capital improvements.

PROPOSED FIRST AMENDMENT TO MANAGEMENT AGREEMENT

1. Financial Terms

   A. MTC will be allowed to retain 100% of any revenues generated by third party use in support of cargo activities. Port will receive 50% of any revenues if activity is not in support of cargo activities.
   B. Rent received from Nippon Sharyo USA, Inc. under its Port Lease No. 12644, dated May 1, 1999 for premises located at Pier 80 Shed A will be credited against MTC's Annual Use Fee. Nippon Sharyo USA imports Caltrain railcars by vessel, for which the Port receives wharfage and dockage, and assembles them in Shed A. This use of the premises for cargo support activities entitles MTC to 100% of this revenue.
   C. Port's percentage of Tariff Revenues collected for Crane Rental will be increased from 50% to 65% resulting in increased revenue to Port of approximately $100,000.
   D. Port will reimburse MTC for completion of specific Capital Improvements which benefit the Port's cranes and its gate at Pier 80, as more specifically listed in Exhibit C attached to the Agreement.

This proposed amendment will improve the economic viability of MTC's cargo operations at Pier 80 and through increased crane rental allows the Port a greater share of future growth.

Staff recommends approval of this First Amendment with MTC in substantially the form attached hereto and consistent with the financial terms set forth above.

Prepared by: Peter Dailey, Maritime Director

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 00-19

WHEREAS, Charter Section B 3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, under Charter Section B 3.581(g) leases and franchises granted or made by under the Port Commission shall be administered exclusively by the operating forces of the Port Commission; and

WHEREAS, the Port entered into a five-year Nonexclusive Management Agreement with Marine Terminals Corporation for the operation of Pier 80 on December 17, 1997; and

WHEREAS, Port and Management Contractor now desire to amend the Nonexclusive Management Agreement to address the rights of Management Contractor to allow the use by third parties of portions of the premises not directly used by Management Contractor for cargo vessel operations; to adjust crane rental compensation and rent credit provisions; and to modify the obligations of Port and Management Contractor in accordance with the terms of this First Amendment; now, therefore, be it

RESOLVED, the San Francisco Port Commission hereby authorizes the Executive Director to approve this First Amendment to the Nonexclusive Management Agreement with Marine Terminals Corporation on terms set forth in the memorandum for this item, a copy of which is to be filed with the Secretary of the Port Commission, and to execute documents effecting said Amendment on behalf of the Port, in such form as is approved by the City Attorney.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of March 14, 2000.

_____

Secretary

CITY AND COUNTY OF SAN FRANCISCO

WILLIE L. BROWN, JR., MAYOR

FIRST AMENDMENT TO NONEXCLUSIVE MANAGEMENT AGREEMENT

BY AND BETWEEN

THE CITY AND COUNTY OF SAN FRANCISCO

THROUGH THE SAN FRANCISCO PORT COMMISSION

AND

MARINE TERMINALS CORPORATION,
A NEVADA CORPORATION

DOUGLAS F. WONG
Executive Director

SAN FRANCISCO PORT COMMISSION

Kimberly Brandon, President
Brian McWilliams, Vice President
Denise McCarthy, Commissioner
Michael Hardeman, Commissioner
Pius Lee, Commissioner

FIRST AMENDMENT TO NONEXCLUSIVE MANAGEMENT AGREEMENT

This First Amendment to the NONEXCLUSIVE MANAGEMENT AGREEMENT (this "Agreement"), dated for reference purposes only as of this 1st day of January, 2000, by and between the City and Country of San Francisco "(City"), a municipal corporation, acting by and through the San Francisco Port Commission ("Port"), and Marine Terminals Corporation, a Nevada Corporation ("Management Contractor") is made with reference to the following facts:

RECITALS

A. Port and Management Contractor entered into a five-year Nonexclusive Management Agreement for the operation of Pier 80 on December 17, 1997;

B. The parties now desire to amend the Agreement to address the rights of Management Contractor to allow the use by third parties of portions of the Premises not directly used by Management Contractor for cargo vessel operations, and to address certain rent credit issues related to further compensation and payments to Port.

Now, therefore, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Port and Management Contractor do hereby agree as follows:

AGREEMENT

1. **Recitals**: The foregoing recitals are true and correct and are incorporated herein by this reference.

2. **Effective Date**: The effective date of this First Amendment to the Nonexclusive Management Agreement shall be January 1, 2000 (hereinafter the "Effective Date").

3. **Section 4.2.a.iii** is deleted in its entirety and replaced with the following language: 65% of all Tariff Revenue collected for Crane Rental, provided, however that time of use shall be billed in one-tenth hour increments.

4. **Section 4.3 Further Compensation** is hereby deleted in its entirety and replaced by the following language:

   4.3 Further Compensation. Management Contractor shall not be entitled to any further compensation or remuneration for its services pursuant to this Agreement, unless otherwise provided, except for:

   a. Time lost due to crane down time not caused by Management Contractor not otherwise recoverable;

b. Wharfage credits taken by Current Shipping Lines under equalization provisions in Section 4.02 of Use Agreements. Amount must be documented as per requirements of Section 4.02;
c. 50% of expenses incurred by Management Contractor for the rental of an emergency generator to handle any Y2K problems at Pier 80 not to exceed $7,000. Such eligible expense will be documented by the Management Contractor by receipts marked "paid", cancelled checks, or such other evidence reasonably satisfactory to Port. Any amount above $7,000 will be the sole responsibility of the Management Contractor.
d. Possessory Interest Tax, excluding late charges, provided that Management Contractor submits to Port within forty-five (45) days after Management Contractor's payment, satisfactory evidence of payment in full.
e. The amount of monthly rent actually received by Port from Nippon Sharyo USA Inc. under its Port Lease No. 12644, dated May 1, 1999, for premises located at Pier 80 Shed A, but in no event to exceed $33,333.00 per month.

Payment for items 4.3.a., b., c., d, and e will be reimbursed through a credit to be given by Port against the monthly payment of the Annual Use Fee required in Sections 4.2.b for the month immediately following Port's approval of the applicable item of further compensation set forth in Section 4.3 a.-e. above. If the full amount of the approved credit is more than the monthly amount of Annual Use, the uncredited amount shall be carried over to the following months' Annual Use Fee until taken in full. Notwithstanding the foregoing, the Port shall have no obligation to pay Management Contractor any uncredited amounts due hereunder after the termination of the term hereunder. Payment for item 4.3.e. will also be reimbursed through a credit to be given by Port against the monthly payment of the Annual Use Fee required in Sections 4.2.b for each month immediately following Port's receipt of monthly rent from Nippon Sharyo USA Inc. Any amount of rent actually received by Port as described in subsection 4.3.e. in excess of $33,333.00 per month shall not be carried forward to pay Management Contractor for subsequent months.

5. **Section 4.5 Reimbursement for Capital Improvements** is hereby added as follows:

Section 4.5 Reimbursement for Capital Improvements. During the term of this Agreement, Management Contractor agrees to undertake certain capital improvements at Pier 80 which are described on Exhibit C attached hereto and incorporated herein by reference (hereinafter the "Exhibit C Capital Improvements"). Subject to the further provisions of this Section 4.5, Port shall reimburse Management Contractor for Certified Costs directly related to such Exhibit C Capital Improvements undertaken during the First Amendment Term not to exceed amounts referenced in Exhibit C.

For the purposes of this First Amendment, "Certified Costs" shall mean those Costs certified by the Port in accordance with this Section 4.5. Costs shall be Management

Contractor's actual and reasonable costs to purchase and install the Exhibit C Capital Improvements.

In order for the Exhibit C Capital Improvement Costs to be certified by the Port: (1) Management Contractor must first obtain prior to purchase and installation, written approval from the Port that the proposed modifications qualify for cash reimbursement and written approval of the budget therefor, and (2) Management Contractor must obtain all required approvals, including, but not limited to building permits and environmental clearances.

After completion of approved projects, Management Contractor must deliver to Port documentation of expenditures including receipts marked "paid", cancelled checks, or such other evidence reasonably satisfactory to Port. All reimbursements by Port to Management Contractor for Exhibit C Capital Improvements shall be by cash made promptly upon certification of the Costs by the Port.

6. **Section 18 of the Lease (Assignment and Transfer)** is hereby amended to add the following Sections 18.3 through 18.6:

18.3. Other Users. Notwithstanding Section 18.1 hereof, and without otherwise affecting Section 3 allowing Management Contractor to enter into agreements with New Users and Current Shipping Lines, Management Contractor shall have the right, from time to time, to allow other third parties that are not New Users or Current Shipping Lines ("Other Users") to use portions of the Facility by written agreement ("Other Users Agreement"), subject to Port's prior written consent which consent shall not be unreasonably withheld or delayed, in accordance with this Section 18.3. The form of the Other Users Agreement shall be subject to Port's approval, which approval shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, Management Contractor shall give priority to New Users and Current Shipping Lines and the uses set forth in Section 3.1 hereof relating to operation of a Marine Terminal Facility (collectively, "Marine Terminal Uses"). Management Contractor shall include a provision in each Other Users Agreement that allows Management Contractor to terminate the Other Users Agreement for available Marine Terminal Uses. If, after Management Contractor enters into an Other Users Agreement and Marine Terminal Uses become available for the portion of the Facility subject to the applicable Other Users Agreement, Management Contractor shall exercise such 30-day termination provision in a timely manner in order to accommodate such Marine Terminal Uses.

18.4 Conditions of Consent to Other Users Agreement. Port may consent to the proposed Other Users Agreement subject to any reasonable conditions, which conditions may include, without limitation: (a) the proposed uses are not inconsistent with this Agreement, including without limitation, Section 3.1, (b) the Other Users and the Other Users Agreement are expressly subject to all the terms and provisions of this Agreement, (c) the term of the Other Users Agreement does not extend beyond the

term of this Agreement, (d) the proposed Other Users indemnifies the City and Port for any loss or damage in form reasonably satisfactory to the City's Risk Manager and Port, (e) Management Contractor remains liable under this Agreement, (f) the proposed Other Users provides liability and other insurance reasonably requested by Port, naming Port as an additional insured, in form and amounts reasonably approved by Port, (g) the proposed use would not preclude or materially interfere with the existing or future Marine Terminal Uses, and (h) the Other Users Agreement contains a provision allowing for the termination of such use upon no more than thirty (30) days' prior written notice as described in Section 18.3 above.

18.5 Reasonable Grounds to Deny Consent. Port may deny its consent to the proposed Other Users Agreement on any reasonable ground. Reasonable grounds shall include, without limitation, any one or more of the following: (a) that the proposed Other Users' financial condition is or may become insufficient to support all of the financial and other obligations of the Other Users Agreement; (b) that the proposed Other Use is inconsistent with the terms of this Agreement or otherwise will materially and adversely affect any interest of Port; (c) that the nature of the proposed Other Users' intended or likely use of the Premises would involve an increased risk of the use, release or mishandling of Hazardous Materials or otherwise increase the risk of fire or other casualty; (d) that the business reputation or character of the proposed Other Users is not reasonably acceptable to Port; (e) that the proposed Other Users is not likely to conduct on the property a business of a quality substantially equal to that conducted by Management Contractor; (f) that Management Contractor has failed to satisfactorily comply with conditions imposed on it by Port pursuant to subsection 18.4(i) above, (g) the Port does not reasonably approve the form of Other Users Agreement, or (h) there is an uncured event of default by Management Contractor hereunder. If Port denies its consent to the proposed Other Users Agreement pursuant to this Section 18.5, (ii), and if Management Contractor shall so request in writing, Port shall provide to Management Contractor a statement of the basis on which Port denied its consent.

18.6 Payment of Other User Fees. With respect to Other Users Agreements that are not directly related to cargo support at the Facility, fifty percent (50%) of all sums paid or payable to Management Contractor by the Other User, including without limitation, any sums characterized as rent, user or license fees, and all other sums or other consideration received by Management Contractor as a result of the use of the Facility by the Other Users in whatever form shall be paid by Management Contractor to Port immediately upon receipt thereof by Management Contractor. Management Contractor shall be entitled to retain one hundred percent (100%) of all sums paid by Other Users to the extent that such sums are attributable to use of the Facility by such Other Users directly in furtherance of cargo-supporting activities at the Facility; as reasonably determined by Port.

7. **Remainder Unchanged.** Except as otherwise provided for herein, the remainder of the Agreement remains in full force and unchanged.

Whereby, the parties enter into this Agreement as of the date first above written.

CITY AND COUNTY OF SAN FRANCISCO
a municipal corporation
operating by and through the
SAN FRANCISCO PORT COMMISSION

By:_____

Douglas F. Wong
Executive Director

Date Executed: _____

MARINE TERMINALS CORPORATION,
a Nevada Corporation

By: _____

Dave Adam
Executive Vice President

Date Executed: _____

APPROVED AS TO FORM:

LOUISE H. RENNE, City Attorney

_____
Deputy City Attorney

Authorization by Port Commission

Resolution No._____

Adopted:_____

FMC No._____

EXHIBIT C

CAPITAL IMPROVEMENTS

Container Crane Modifications (Total $180,000):

1) Air Filtration Systems to be installed in cabs of Port's (4) existing cranes at Pier 80. Total amount not to exceed $43,000.

2) Boom Protection Systems to be installed on Ports (4) existing cranes at Pier 80. Total amount not to exceed $65,000.

3) Overload Protection Systems to be installed on Ports (4) existing cranes at Pier 80. Total Cost not to exceed $72,000.

Gate Improvements at Pier 80 (Total $73,000):

1) Electrical work to provide computer access to the ILWU clerk's outbound station as part of improvements to Pier 80 gate. Total amount not to exceed $30,000.

2) Activation of truck scales 4 and 5, and installation of electronic display screens at existing truck scales. Total amount not to exceed $28,000.

3) ILWU Clerk's Portable Outbound Gate Shed. Total amount not to exceed $15,000.

PORT OF SAN FRANCISCO

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MEMORANDUM

March 8, 2000

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Brian McWilliams, Vice President
Hon. Denise McCarthy
Hon. Michael Hardeman
Hon. Pius Lee

FROM: Douglas F. Wong
Executive Director

SUBJECT: Authorization for Port staff to negotiate and execute a personal services contract with The Johns/Rife Group of San Francisco, California, for specialized move coordination services for the Port of San Francisco's move to Pier 1, at a cost not to exceed $90,000.

DIRECTOR'S RECOMMENDATION: THAT THE COMMISSION AUTHORIZE STAFF TO NEGOTIATE AND ENTER INTO A CONTRACT WITH THE JOHNS/RIFE GROUP FOR SPECIALIZED MOVE COORDINATION SERVICES FOR THE PORT'S RELOCATION PROJECT, AT A COST NOT TO EXCEED $90,000.

BACKGROUND

The administrative offices of the Port of San Francisco will be moving to Pier 1 as part of the plan to vacate the Ferry Building prior to the commencement of the Ferry Building Renovation Project.

The Port of San Francisco's tenancy in Pier 1 is a component of the Pier 1 Development Project. Design and construction of improvements in the Port's office space is provided in part through the Sublease and Workletter between the Port and AMB Property Corporation, dated August 2, 1999, with a specified allowance for the tenant improvements. The Port staff seeks authorization to contract directly for services needed which are not included in the Development Agreement.

This Print Covers Calendar Item No. 7A

Through this Commission action item, Port staff seeks authorization to contract for specialized move coordination services. The original intent for obtaining these services was to use the RFP process. While doing research to identify potential respondents, staff discovered that the services required are a rare specialty for moves of this magnitude, and that the Johns/Rife Group is the only San Francisco, minority firm, meeting the qualifications for the scope of work. The HRC Director approved the staff's request for a sole source waiver on January 18, 2000.

Civil Service Commission approval for the Personal Services Contract for move coordination services was granted on February 7, 2000.

The Johns/Rife Group has presented staff with a preliminary proposal for a fee of $68,250, and the Port's Relocation Project Manager has estimated a not-to-exceed budget of $90,000 for the scope of services currently anticipated. Funding for $90,000 has been approved as part of the Port's 1999/2000 Budget.

Prepared by Mary Ilyin, Pier 1 Relocation Project Manager

For Cliff Jarrard, Chief Harbor Engineer

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 00-20

WHEREAS, the Commission authorized the relocation of the administrative offices of the Port of San Francisco to Pier 1, as part of the Pier 1 Development Agreement with AMB Property Corporation; and

WHEREAS, specialized move coordination consulting services will be required to facilitate the move of Port's offices to Pier 1; and

WHEREAS, the Civil Service Commission has approved the Port's contracting of these specialized services; and

WHEREAS, the Johns/Rife Group of San Francisco has been approved by the Human Rights Commission as the sole source provider of the scope of services required for this relocation project; and

WHEREAS, the Port Commission previously approved the funding request of the Relocation Project as part of the Port's 1999/2000 budget; and therefor be it

RESOLVED, that the Port Commission hereby authorizes the Executive Director or his designee to negotiate and enter into a personal services contract, in such form as approved by the City Attorney, with The Johns/Rife Group of San Francisco, California, for specialized move coordination services for the Port of San Francisco's office relocation to Pier 1, for a cost not to exceed $90,000.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of March 14, 2000.

_____
Secretary

I:\Cliff\Commission\Pier 1\JR Agenda

PORT OF SAN FRANCISCO

Ferry Building
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MEMORANDUM

March 9, 2000

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Brian McWilliams, Vice President
Hon. Denise McCarthy
Hon. Michael Hardeman
Hon. Pius Lee

FROM: Douglas F. Wong
Executive Director

SUBJECT: Authorization to execute a contract modification to Contract No. 2613 to include the Alternate Bid Item "Breakwater" to the Downtown Ferry Terminal Project in an amount not to exceed $3,497,760, and to request a supplemental appropriation in the amount of $648,772 to fund a portion of the project costs.

DIRECTOR'S RECOMMENDATION: AUTHORIZE STAFF TO SEEK A SUPPLEMENTAL APPROPRIATION AND EXECUTE A CONTRACT MODIFICATION TO CONTRACT 2613.

Introduction

Port staff requests that the Commission authorize the execution of a contract modification to the existing Downtown Ferry Terminal Construction Contract No. 2613. This modification will allow the Port to complete the breakwater element of the project (originally an alternate bid item), which is needed to shelter the ferry berthing in the southern basin during adverse weather conditions.

Background

On December 16, 1999 the Port authorized Port Staff to award the construction contract for the Downtown Ferry Terminal Project to Miller Thompson Constructors (MTC), a woman-owned Disadvantaged Business Enterprise (DBE). The contract for $9.17 million covers only the Base Bid scope of work, which includes the new south terminal and float and the new north terminal and refurbished float. The breakwater, originally part of the Base Bid scope of work, was extracted as an alternate bid item prior to bidding to insure that the Port had sufficient funds to award the contract. MTC was the lowest responsible bidder for both

This Print Covers Calendar Item No. 7B

the Base Bid and the Breakwater Alternate Bid Item. However, the bids for the base and alternate bid items, combined, exceeded the available funding. Thus, the contract award to MTC included only the Base Bid scope of work. The Port's Notice to Proceed was issued to MTC on January 24, 2000 and work is currently underway.

Current Status

The cost of the Alternate Bid Item "Breakwater" (consisting of several related Bid Items A4.1 through A4.4) as bid by Miller Thompson Constructors is $3,497,760. A total of $3,847,536 is thus needed to fund this work and a standard construction contingency of 10%. A Federal Transit Administration (FTA) grant (of $2.4 million) and the California Transportation Commission Proposition 116 (CTC) grant are both available for this cost. The FTA grant was awarded specifically for the construction of the breakwater and requires 20% matching funds. Both grants have been awarded to the Port for the construction of the Downtown Ferry Terminal. For the remaining additional funds needed to build the Breakwater, Port staff intends to utilize unappropriated operating fund surplus. However, the Port will require approval of a supplemental appropriation in the amount of $648,772 to secure the funding for this work. A summary of the proposed funding sources for the breakwater is as follows:

Fund Source	Amount
Federal Transit Administration (Section 3) Grant	$2,400,000
California Transportation Commission (Prop. 116)	$798,764
Port operating fund	$648,772
Total	$3,847,536

Schedule

The current contractual project completion date is January 7, 2001 with the areas of work affecting the Ferry Building Project to be completed by the end of 2000. Should the breakwater be added to the Downtown Ferry Terminal contract, as requested by staff, the work will be scheduled to start mid to late summer 2000.

Prepared by: Nita Mizushima
Project Manager

For: Cliff Jarrard
Chief Harbor Engineer

PORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 00-21

WHEREAS, Prior to the contract bidding for the Downtown Ferry Terminal Project, the Breakwater scope of work was extracted from the Base Bid and converted into Alternate Bid Item A4; and

WHEREAS, The Breakwater component of this project is needed to shelter ferry berthing at the new southern terminal during adverse weather conditions; and

WHEREAS, The cost of Alternate Bid Item A4 "Breakwater" as competitively bid by the successful bidder, Miller Thompson Constructors, is $3,497,760; and

WHEREAS, The Federal Transit Administration has granted partial funding in the amount of $2,400,000 for the breakwater construction; and

WHEREAS, Funds in the amount of $798,764 from the California Transportation Commission Proposition 116 funds are available to pay for this additional scope of work; and

WHEREAS, Port staff recommends utilizing surplus operating funds of $648,772 to cover the remaining costs for the Breakwater construction, which, in turn, requires a supplemental appropriation; now therefor be it

RESOLVED That the Port Commission hereby authorizes staff to request a supplemental appropriation in the amount of $648,772 from the Port operating fund to contribute to the cost of the Alternate Bid Item A4 "Breakwater"; and be it further

RESOLVED That the Port Commission authorizes staff to execute a contract modification to add the Alternate Bid Item A4 "Breakwater" to the existing Downtown Ferry Terminal Construction Contract 2613 in the sum not-to-exceed $3,497,760, and authorizes a 10% construction contingency.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of March 14, 2000.

_____

Secretary

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Fax 415 274 0528
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MEMORANDUM

March 9, 2000

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Brian McWilliams, Vice President
Hon. Denise McCarthy
Hon. Michael Hardeman
Hon. Pius Lee

FROM: Douglas F. Wong
Executive Director

SUBJECT: Authorization to Advertise for Competitive Bids for the Pier 48 Interior Fire Damage Repair Project, Contract No. 2665

DIRECTOR'S RECOMMENDATION: TO APPROVE THE REQUEST FOR AUTHORIZATION TO ADVERTISE FOR COMPETITIVE BIDS FOR THE PIER 48 INTERIOR FIRE DAMAGE REPAIR PROJECT

On November 26, 1996, a fire at the east end of Pier 48 destroyed the interconnecting wood frame structure and caused substantial structural damage to the steel frames, walls and roof at the easterly end of Sheds A and B on the pier. The fire caused significant deformation of steel trusses and caused pre-cast concrete wall panels that make up the exterior walls of the sheds to move from their original position. An emergency was declared and subsequently approved by the Port Commission on December 13, 1996. This emergency authorized staff to take several actions including hiring a consultant to design repairs for the building shell and to advertise for competitive bids for construction of the repairs. In 1998, Contract 2636 for the building shell repair and reconstruction work was completed.

Port Staff and an Architectural Consulting Team recently completed the plans and specifications necessary to bid the construction of the interior repairs for Pier 48. This contract, known as the Pier 48 Interior Fire Damage Repair, Contract 2665 completes the interior portion of the fire damage repair. The contract includes the design and installation of a code upgrade fire sprinkler system, the installation of the restrooms, the building's electrical and mechanical systems and provisions for access and egress in compliance with the current Building Code and ADA requirements. The Port's insurance carrier has reviewed the Interior Repair Project contract documents and verified that the scope of work complies with the insurance coverage available under the insurance policy. Therefore, the cost of this work will be covered by the Port's property insurance. The current cost estimate for the construction work is $1,540,000.

Port staff requests authorization to advertise for competitive bids for this construction project for repairs to Pier 48, as outlined above.

Prepared by: Ed Byrne, Senior Civil Engineer
For: Cliff Jarrard, Chief Harbor Engineer

This Print Covers Calendar Item No. 7C

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 00-22

WHEREAS, On November 26, 1996, a fire at the east end of Pier 48 destroyed the interconnecting wood frame structure and caused substantial structural damage to the steel frames, walls and roof at the easterly end of Sheds A and B on the pier; and

WHEREAS, exterior shed repairs and reconstruction were completed in 1998 under Contract 2636; and

WHEREAS, Port Staff and an Architectural Consulting Team have prepared the required plans and specifications to bid the construction contract for interior repairs and improvements for Pier 48; and

WHEREAS, this contract includes the design and installation of the fire sprinkler system, installation of the restrooms, electrical and mechanical building systems and provisions for access and egress in compliance with the current Building Code and ADA requirements; and

WHEREAS, the insurance carrier for the Port has reviewed the Interior Repair Project contract documents for this project and verified that the scope of work complies with the insurance coverage for the building repair and upgrade required due to the fire damage; and

WHEREAS, the cost of this work is covered by the Port's property insurance; and

WHEREAS, the current cost estimate for the construction work is $1,540,000; and therefore be it

RESOLVED, that the San Francisco Port Commission hereby authorizes Port Staff to Advertise for Competitive Bids for the Pier 48 Interior Fire Damage Repair Project.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of March 14, 2000.

_____
Secretary

PORT OF SAN FRANCISCO

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MEMORANDUM

March 8, 2000

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Brian McWilliams, Vice President
Hon. Denise McCarthy
Hon. Michael Hardeman
Hon. Pius Lee

FROM: Douglas F. Wong
Executive Director

SUBJECT: Authorization to Advertise for Competitive Bids for Contract No. 2666, "China Basin Shoreline Stabilization Project."

DIRECTOR'S RECOMMENDATION: TO APPROVE THE REQUEST FOR AUTHORIZATION TO ADVERTISE FOR COMPETITIVE BIDS FOR THE CHINA BASIN SHORELINE STABILIZATION PROJECT

The San Francisco Bay Conservation and Development Commission (BCDC) has required the Giants to construct a public access park as a condition to the permit for Pacific Bell Ballpark. This public access park will be constructed along China Basin. However, the park improvements will require shoreline protection to prevent further deterioration of the existing shoreline and to protect the park improvements. The Port Commission has approved $592,200 in the 1998/99 fiscal year Capital Budget to design and construct the shoreline stabilization project.

Port Staff and an Engineering Consulting Team have prepared the required plans and specifications to bid the contract for construction for the shoreline stabilization project at China Basin. This construction project will provide approximately 830 linear feet of new shoreline protection. The shoreline protection will be provided along the southern edge of China Basin from the Third Street Bridge to the edge of Pier 48. The shoreline protection project will include removal of concrete rubble debris and placement of new riprap.

The construction contract work includes contractor mobilization and demobilization, demolition, riprap supply and installation, supervision and management, materials, and equipment to complete the work as set forth in the Construction Documents. The current engineer's cost estimate for the construction work is $361,000.

Therefore, Port staff requests Commission authorization to advertise for competitive bids for this construction contract.

Prepared by: Ken Chu, Associate Civil Engineer for
Cliff Jarrard, Chief Harbor Engineer

This Print Covers Calendar Item No. 7D

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 00-23

WHEREAS, San Francisco Bay Conservation and Development Commission (BCDC) has required the Giants to construct a public access park as a condition to the permit for Pacific Bell Ballpark; and

WHEREAS, shoreline protection is necessary to prevent further deterioration of the existing shoreline and to allow for park improvements; and

WHEREAS, the Port Commission has approved $592,200 in the 1998/99 fiscal year Capital Budget to design and construct the shoreline stabilization project; and

WHEREAS, Port staff and an Engineering Consulting Team have prepared the required plans and specifications to bid the contract for the construction for the shoreline stabilization project at China Basin; and

WHEREAS, the China Basin Shoreline Stabilization project will provide approximately 830 linear feet of new shoreline protection along the southern edge of China Basin from the Third Street Bridge to the edge of Pier 48; and

WHEREAS, this shoreline protection project will include removal of concrete rubble debris and placement of new riprap; and

WHEREAS, the current engineer's cost estimate for the construction work is $361,000; now therefore be it

RESOLVED, that the San Francisco Port Commission hereby authorizes Port Staff to Advertise for Competitive Bids for Contract No. 2666, "China Basin Shoreline Stabilization Project."

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of March 14, 2000.

_____
Secretary

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MEMORANDUM

March 8, 2000

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Brian McWilliams, Vice-President
Hon. Denise McCarthy
Hon. Michael Hardeman
Hon. Pius Lee

FROM: Douglas F. Wong
Executive Director

SUBJECT: Authorization to Award Contract No. 2664, "Hyde Street Harbor Landside Improvements Project," to the lowest responsive bidder, Proven Management Inc., for $2,100,519 Plus a 10% Contingency

DIRECTOR'S RECOMMENDATION: THAT THE COMMISSION AUTHORIZE STAFF TO AWARD CONTRACT NO. 2664, FOR CONSTRUCTION OF THE HYDE STREET HARBOR LANDSIDE IMPROVEMENTS PROJECT, TO PROVEN MANAGEMENT INC.

This project was previously a component of a combined landside and waterside project, for which Port staff received construction bids in excess of budget, resulting in the rejection of all bids in July 1999. The project has since been divided into two separate projects and re-designed to achieve cost savings. On November 17, 1999, the Commission authorized staff to re-advertise for competitive bidding of the construction of this project, known as the Hyde Street Harbor Landside Improvements Project.

The main landside project components include:

- New utilities along Hyde Alley, including a new asphalt paved surface.
- Partial demolition of the 490 Jefferson building to accommodate a new 24 car parking lot.
- New parking lot at the North end of Hyde Alley to accommodate 21 parking stalls.

THIS PRINT COVERS CALENDAR ITEM NO. 7E

- New bathrooms, utility and storage facility located within the existing blue shed building on Hyde Alley.
- Public and disability access from Jefferson Street to the public access area at the North end of Hyde Alley.

The Bay Conservation and Development Commission and Army Corps of Engineers have approved the permit for this project. In addition, the Mayor's Citywide Coordinator for Disability Access, the Fisherman's Wharf Advisory Committee, and the Environmental Quality Advisory Committee have approved the project design.

The funding sources for design and construction of Hyde Street Harbor Improvements project (including both waterside and landside) are:

• Cal- Boating Loan	$3,500,000
• Cal- Boating Grant	$ 86,500
• Clean Water Grant	$ 400,000
• Previously appropriated Port Capital Funds	$2,140,500

The construction of Hyde Street Landside Improvements project will be funded with the remaining balance of the Cal-Boating Loan, the Clean Water Grant and the Port Capital Funds.

On February 17 of this year, five bids were received for this project. A summary of these bids is attached. The lowest responsive, responsible bidder is Proven Management Inc. The Human Rights Commission (HRC) staff has reviewed the bids and confirmed that Proven Management Inc. is a certified MBE and LBE contractor and has met the subcontracting goals of 15% for MBEs and 6% for WBEs.
Peak Engineering Inc., the apparent fourth low bidder, submitted bid protests against the bids of Proven Management Inc and D'arcy and Harty Construction Inc., the first and second low bidders, respectively. Peak Engineering Inc. erroneously claimed that the HRC documents submitted by these bidders were deficient and rendered their bids non-responsive. In consultation with HRC staff and the City Attorney's office, Port staff has carefully evaluated the bid documents and the bid protests. Peak's protests were determined to be without merit.

Staff therefore recommends that the Commission authorize the award of Contract No. 2664, "Hyde Street Harbor Landside Improvements Project," to Proven Management Inc., the lowest responsive, responsible bidder, for $2,100,519 (representing the base plus alternate work items) plus a 10% construction contingency, for a total contract amount of $2,310,571.

Staff also recommends that the Executive Director be authorized to accept the work after it is complete.

Prepared by: Mojgan Yousefkhan
Project Manager

For: Cliff Jarrard
Chief Harbor Engineer

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 00-24

WHEREAS, On November 17, 1999, the Commission authorized Staff to advertise for bidding of Contract No. 2664, for construction of the "Hyde Street Harbor Landside Improvements Project;" and

WHEREAS, On February 17, 2000, the Port received five bids, and Staff reviewed the bid documents and determined that the lowest responsive, responsible bidder is Proven Management Inc.; and

WHEREAS, The Human Rights Commission (HRC) Staff has reviewed the bids and has confirmed that Proven Management Inc. is a certified Minority Business Enterprise (MBE) and has met the subcontracting goals of 15% for MBEs and 6% for WBEs.; and

WHEREAS, The cost of the project will be covered by a loan from Cal-Boating ($235,343), the Clean Water Grant ($400,000), and the Port Operating funds ($1,675,228); now therefore be it

RESOLVED, That the San Francisco Port Commission hereby authorizes the award of Contract No. 2664, "Hyde Street Harbor Landside Improvements Project," to Proven Management Inc., for $2,100,519 plus a 10% construction contingency, for a total contract amount of $2,310,571; and be it further

RESOLVED, That the San Francisco Port Commission authorizes the Executive Director to accept the work after it is complete.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of March 14, 2000.

_____
Secretary

BID SUMMARY RESULT

Project: Hyde St. Harbor landside Improvements
Contract No.: 2664
Project Engineer: Joe Roger
Project Manager: Mojgan Yousefkhan

Prepared By: Mojgan Yousefkhan
Checked By: CMA
Date: 2/18/00
Bids Opened: 2/17/00

Bid Item	DESCRIPTION	Ogiso Environmental* SF, CA	Darcy & Harty Cons.** SF, CA	Peak Eng* SF, CA	Proven Mang. Inc.* SF, CA	Lindquist Van Hook SF, CA
		Amount	Amount	Amount	Amount	Amount
LS-1	Demolish, abandon, remove, and repair all items as noted in the specification and as shown on the project plans. Asbestos removal and disposal at 490 Jefferson Street.	$293,860.69	$90,000.00	$375,000.00	$188,419.00	$175,187.00
LS-2	Paving: Parking lots and pedestrian areas including Striping. Paving of pier 2 1/2" Ac, paving over concrete slab, paving of roadway and parking lots, all earthwork required at site. Off-haul and replacement of Class I and II material for lump sum item.	$310,677.60	$210,000.00	$300,000.00	$150,000.00	$347,937.00
LS-3	Connection of storm drain to existing. Connection of sewer to existing, water connection to existing. Valves and valve boxes. Pick-up and connect water system from Waterside Project. Storm drain piping under pier (6"). Storm drain piping landside (8"), and storm drain piping landside (10"). Deck drains, catch basins, manhole (S.D.), oil/water separator. Sewer line (3"), Sewer line (4"), Water line (2 1/2") Water line (6"), Water Line (1-1/2"). Double check valve. Water meter, sump pump discharge line, Fuel pier deck drains. Restroom/storage building sewer and water.	$34,636.80	$245,000.00	$250,000.00	$250,000.00	$190,683.00
LS-4	Gas service	$7,005.60	$6,000.00	$2,000.00	$5,000.00	$44,940.00
LS-5	All landside electrical service. Pick-up waterside electric. Pick-up telephone system from Waterside Project. All Landside telephone system, Light fixtures, Type AA, and Type BB. Remote infrared sign system conduits.	$398,344.80	$300,000.00	$210,000.00	$260,000.00	$385,079.00

Project: Hyde St. Harbor landside Improvements
Contract No.: 2664
Project Engineer: Joe Roger
Project Manager: Mojgan Yousefkhan

Prepared By: Mojgan Yousefkhan
Checked By: CMA
Date: 2/18/00
Bids Opened: 2/17/00

Bid Item	DESCRIPTION	Ogiso Environmental* SF, CA	Darcy & Harty Cons.** SF, CA	Peak Eng* SF, CA	Proven Mang. Inc.* SF, CA	Lindquist Van Hook SF, CA
LS-6	Fuel pier bilge pump-out and lines. Fuel pier bolding tank pump-out and lines. Duplex pump station and Drain ejector pit. Fuel filling point. Relocate tank pilot light. Fuel Pier hose bib, Diesel fuel lines. Fuel system transmission lines. Install fiber reinforce plastic pans and grating at fuel pier.	$347,479.20	$260,000.00	$260,000.00	$100,000.00	$312,149.00
LS-7	Jefferson St building and loading dock, wood pier, Fuel pier access ramp. Wood railing, Bollards, Bull rail.	$210,000.00	$150,000.00	$250,000.00	$200,000.00	$158,949.00
LS-8	Concrete sidewalk, Concrete curb, Concrete ADA ramps. 9" Thick Concrete Slab, and Concrete walls	$121,116.00	$200,000.00	$175,000.00	$400,000.00	$291,468.00
LS-9	Aluminum railing, Chain link fence, and gate structure	$90,000.00	$50,000.00	$50,000.00	$70,000.00	$80,250.00
LS-10	Site furnishings, signage, including infra-red Signage	$100,566.00	$70,000.00	$60,000.00	$70,000.00	$128,470.00
LS-11	Trench shoring or equivalent method of safety protection	$6,000.00	$10,000.00	$2,000.00	$5,000.00	$26,429.00
LS-12	Restroom, Utility rooms, and Storage facility	$126,000.00	$225,000.00	$200,000.00	$200,000.00	$168,559.00
UP-1	14" Concrete Filled Steel Piles	$193,488.00	$111,200.00	$180,700.00	$125,100.00	$199,048.00
UP-2	Splicing of Steel Piles	$540.00	$300.00	$1,000.00	$10,000.00	$500.00
	Grand Total All Lump Sump Items and Unit Price Items	$2,239,714.69	$1,927,500.00	$2,315,700.00	$2,033,519.00	$2,509,648.00
ALT-1	Refer to Document 00410	$71,454.00	$65,000.00	$100,000.00	$67,000.00	$54,355.00
	Grand Total Bid Plus Alt-1	$2,311,168.69	$1,992,500.00	$2,415,700.00	$2,100,519.00	$2,564,003.00
Grand Total after applying Bid Discount		$2,080,051.82	$1,892,875.00	$2,174,130.00	$1,890,467.10	$2,564,003.00

** 5% Bid Discount Applied
* 10% Bid Discount Applied

The lowest responsive, responsible bidder is **PROVEN MANAGEMENT INC.**

PORT OF SAN FRANCISCO

MEMORANDUM

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Fax 415 274 0528
www.sfport.com

March 8, 2000

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Brian McWilliams, Vice President
Hon. Denise McCarthy
Hon. Michael Hardeman
Hon. Pius Lee

FROM: Douglas F. Wong
Executive Director

SUBJECT: Informational Report on Project Schedule and Formation of Advisory Group for the Pier 70 Opportunity Area Development Project

NO ACTION BY THE COMMISSION IS REQUIRED: This matter is before you as an informational item related to the above-referenced project.

BACKGROUND

The Port's *Waterfront Land Use Plan* designates a 16-acre portion of Pier 70 (the "Opportunity Area") where future non-maritime uses will be permitted. The Opportunity Area is between 18th and 21st Streets and is adjacent to the ship repair operations of the San Francisco Drydock, Inc. Currently, the site consists of several structures, including three historic Union Iron Works buildings that have been designated in the plan for preservation and adaptive reuse, and several acres of vacant paved and unpaved land.

The Waterfront Plan promotes non-maritime uses for the Opportunity Area to facilitate the preservation and renovation of the historic structures and to allow for increased public access to the waterfront. The allowable uses designated in the Plan include assembly and entertainment, general office, industrial, museums, open space, retail, recreational and community facilities, warehousing, academic institutions; as well as additional maritime uses.

Pier 70 is historically significant because it is the oldest, largest and most intact historic industrial complex in the City. The Waterfront Plan and several historic resource studies commissioned by the Port recommend maximum preservation of Pier 70 buildings and other structures. The Waterfront Plan further designates the three Union Iron Works buildings in the Opportunity Area for preservation and adaptive re-use. Port staff are reviewing various preservation options (e.g. establishing an historic district) that will

maximize preservation, allow for the use of historic rehabilitation tax incentives, and be compatible with existing and future maritime uses elsewhere at Pier 70.

As recommended in the Waterfront Plan, an Advisory Group is being established to provide input and guidance for the development of this site. The Advisory Group's purpose is to provide input on the development goals and objectives prior to issuance of a Request for Qualifications and/or Proposals (RFQ/P) for development of the site.

PROJECT STATUS AND SCHEDULE

Developer interest in the Pier 70 area has increased over the past year, particularly in light of the planned Mission Bay and UCSF projects to the north and increasing demands for new multi-media office space and housing. In response to the existing market conditions, Port staff expect to bring an RFQ/P for development of the Opportunity Area to the Port Commission for its approval in late Summer of this year. In addition to the formation of the Advisory Group, Port staff are currently involved in the following activities with regard to the Opportunity Area:

- An application has been submitted to the Environmental Protection Agency (EPA) for a Phase II Analysis of environmental conditions at Pier 70. This analysis will determine the scope and extent of hazardous materials cleanup that will be required prior to new development.

- Port staff are preparing an RFP for consulting services to assist the Port and its Advisory Group in determining alternative development concepts for the site. Working with Port staff, the consultants may recommend project boundaries, assess the costs of environmental remediation and site preparation including required infrastructure, recommend preservation options, and assess the financial viability of alternative development programs. Port staff expects to bring a recommendation for selection of a consultant to the Port Commission in April.

- Port staff are continuing to meet with community groups, city-wide interest groups, and City departments to provide information and get feedback on the development of the Opportunity Area.

- Port staff are continuing to explore short-term interim leasing proposals that generate revenues and are compatible with the future development of the site.

FORMATION OF ADVISORY GROUP

The Port has received numerous recommendations for Advisory Group members for this project from community groups, city-wide interest groups, Port Commissioners and the Mayor's Office. The attached list of Advisory Group members, who have been selected and have agreed to serve, includes individuals and representatives from organizations with demonstrated expertise and experience in addressing issues related to historic

preservation, environmental impacts, local concerns and/or waterfront development projects generally.

The Advisory Group will begin meeting regularly in April 2000, and will continue meeting for several months. Advisory Group meetings will be held near the Pier 70 site (location to be determined) and will be open to the public.

Prepared by:
Richard Hillis and Marshall Foster
Planning & Development Division

Members of the Pier 70 Advisory Group

John Borg	Potrero Central Waterfront Committee
Meb Gordon	Dogpatch Neighborhood Association
Susan Eslick	Dogpatch Neighborhood Association
Dennis Herrera	Dogpatch Neighborhood Association
Joe Boss	Potrero Hill
Paul Sherrill	Potrero Hill
Corinne Woods	Mission Bay Community Advisory Committee
Toby Levine	Waterfront Plan Advisory Board, former Planning Commissioner
Julia Viera	Friends of Islais Creek, Waterfront Plan Advisory Board
Carl Hanson	San Francisco Drydock, Inc. (SFD), Waterfront Plan Advisory Board
Greg Markelus	American Can Industrial Center
Jennifer Clary	San Francisco Tomorrow
Charles E. Chase	San Francisco Heritage
Mara Brazer	San Francisco Partnership
John Kalaki	Yerba Buena Center for the Arts
Tom Escher	Red & White Fleet
Stan Smith	Building Trades
Paul Nixon	Bay Area Sea Kayakers
Dwayne Jones	Young Community Developers
Steven Vettel	SPUR

Members of the Pier 70 Advisory Group (cont.)

Shelley Bell*	Bayview Opera House
Mohammed Nuru*	SLUG
Joyce Armstrong*	Potrero Hill Neighborhood House

*Availability unconfirmed.

PORT OF SAN FRANCISCO

Ferry Building
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MEMORANDUM

March 14, 2000

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Brian McWilliams, Vice President
Hon. Denise McCarthy
Hon. Michael Hardeman
Hon. Pius Lee

FROM: Douglas F. Wong
Executive Director

SUBJECT: MISSION CREEK PARK OPEN SPACE BASIC CONCEPT DESIGN APPROVAL FOR AREA WITHIN PORT JURISDICTION

DIRECTOR'S RECOMMENDATION: APPROVE THE BASIC CONCEPT DESIGN WITH CONDITIONS PROPOSED.

The Mission Bay Redevelopment Plan calls for construction of numerous public open space facilities as a condition of commercial and residential development within the Plan Area. Phased construction of the 15.6 acre Mission Creek Park will be the first open space to be constructed in Mission Bay. Portions of the future Mission Creek Park (approximately 3 acres along the southerly shoreline and .2 acres along the northerly shoreline) are within Port jurisdiction.

Under the Mission Bay South Interagency Agreement (the "ICA"), approved by the Port Commission at its September 22, 1998, meeting by Resolution No. 98-95, the Port has the right to review and approve the design for public open space on land owned by Port within the Port's jurisdiction. The ICA provides that the design review shall apply the standards set forth in the Mission Bay South Redevelopment Plan and the Plan Documents. The relevant pages from the Mission Bay South Redevelopment Plan Design for Development, dated September 17, 1998, are attached hereto as Attachment A-1.

The Port may approve, conditionally approve, or disapprove the open space design. If the Port disapproves the design in whole or in part, it must state the reason or reasons and recommend changes or make other recommendations in writing, and such disapproval or recommended changes must be in conformity with the Mission Bay South Redevelopment Plan and the Plan documents.

THIS PRINT COVERS CALENDAR ITEM NO. 8B

The Redevelopment Agency and Catellus Corporation, the Mission Bay developer, have conducted a series of public workshops and Mission Bay Citizens Advisory Committee meetings between September 1999 and January 2000 to develop the character and design of Mission Creek Park. These efforts concluded in the publication and submittal of the Mission Creek Park Open Space Application (the "Application"). The park design is attractive and includes a combination of active and passive recreational components, habitat enhancement and shoreline enhancement. On February 29, 2000, Catellus representatives described the features of the Park to a Joint Meeting of the Port Commission and the Redevelopment Agency.

Attachment A is an overview of the Mission Creek Park concept design. Note the replacement of existing Channel Street with the future Owens Street. Attachment B depicts the existing conditions, the location of existing Channel Street and the Line of Port Jurisdiction. Attachment C identifies the habitat and shoreline enhancement options that will be incorporated into the park development.

Port staff believes the proposed public open space and shoreline enhancement on land under Port jurisdiction are acceptable and should be approved by the Port Commission with two important conditions.

Future Parking Area for Mission Creek Harbor Association (MCHA) –

Members of the MCHA currently lease their houseboat berths and parking spaces from the Port under a long term lease (L-11451). The replacement of Channel Street with Owens Street will result in moving the parking spaces away from the shoreline edge and out of Port jurisdiction. The reconfiguration of MCHA parking will provide better open space design near the water's edge. No specific agreements have been made between the Port, Redevelopment Agency, Catellus and MCHA addressing the future maintenance, compensation and/or lease terms for the reconfigured parking area.

The Port Commission's approval of this Basic Concept Design should not imply that the disposition of this parking matter has been concluded or that the parking may not remain within Port jurisdiction. Furthermore, relocation of MCHA parking should not be at the Port's expense or result in the Port's material loss of revenue. Therefore, Port staff has recommended that the Port's approval be conditioned upon a satisfactory resolution of the lease issues affecting the parties at no expense to the Port and without resulting in a material loss of revenue.

Loading/Unloading Zone for Carmen's Restaurant –

The Mission Creek Park Open Space Concept Design does not provide for off-street parking or a loading/unloading zone for Carmen's Restaurant, a Port tenant located just south of the Fourth Street Bridge (see Attachment A). The Mission Bay Redevelopment Plan limits uses in the open space to recreational uses along with "accessory parking, kiosk and pushcarts"

that serve the open space. This would not include parking or loading/unloading zones for Carmen's. The Infrastructure Plan for the Mission Bay Redevelopment Area does not provide sufficient detail to determine whether on-street parking or a loading/unloading zone will be provided within the Fourth Street right-of-way, just south of the bridge. Catellus is currently evaluating roadway design options and has committed to undertake an evaluation to provide a loading/unloading zone. This section of Fourth Street is not within Port jurisdiction (see Attachment B).

A restaurant business is severely hampered if a near-by loading/unloading zone is not available for deliveries, taxi drop-offs and/or valet parking. Although the Port may not require dedicated parking for Carmen's within the park boundaries, the current park design will effectively terminate restaurant use at Carmen's unless alternative loading/unloading arrangements are made. Therefore, Port staff recommends that the Port Commission approve the Mission Creek Park Basic Concept Design conditioned upon provision of an alternate loading/unloading zone just south of the Fourth Street Bridge to serve this Port building. Port staff believes Catellus and the Redevelopment Agency can accomplish this by either of the following options:

1. An on-street loading/unloading zone may be able to be accommodated within the Fourth Street right-of-way by narrowing the west-side sidewalk south of the Fourth Street Bridge or by locating this sidewalk entirely outside of the right-of-way and within the park boundary.

2. A non-exclusive loading/unloading zone may be accommodated near Fourth Street within the park boundary for park users and Carmen's.

Prepared by: Paul Osmundson, Director of Planning & Development

Public Open Space

Horticulture:

Existing soil and drainage conditions in Mission Bay are a result of the site's evolution from a bay marsh land to its present form over a period of more than fifty years and may affect successful development of proposed plant material. It is important that each parcel, as it is developed, be carefully evaluated for soil fertility and subsurface drainage quality and that the program of soil preparation, drainage and plant selection be adapted to these specific environmental conditions.

Mission Creek Park - South Channel:

Develop the south side of the Channel (P1, P2, & P3), consistent with regulatory requirements, as a primarily green space with pedestrian pathways, children's play area, gardens, and water-oriented viewing and seating areas.

- Provide planting along Channel edge to elevation of mean low tide with vegetation compatible with each tidal zone.
- Provide reinforcement as required for bank stability and to prevent erosion, using natural materials and including vegetation where feasible.
- Remove existing concrete rip-rap and replace it with plantings from the top of bank to the water, consistent with stabilization requirements.
- Establish shoreline island and/or perch piling to support intertidal bird activity.
- Integrate design with existing Mission Creek Harbor Association, Inc. (MCHA) Park and required MCHA leasehold access and amenities.
- Continue public park between Fourth and Third Streets along the Channel, and include intertidal habitat where viable, recognizing intensive use from hotel patrons in character of landscape and use of paving materials.
- Incorporate boat storage and parking for Mission Creek Harbor.
- Integrate bike path for recreational uses.
- Develop majority of park as lawn to encourage informal recreation
- Explore, as feasible, the development of a fresh water pond as a passive recreational opportunity and as a component of wildlife habitat, using storm/reclaimed water.

Public Open Space Continued

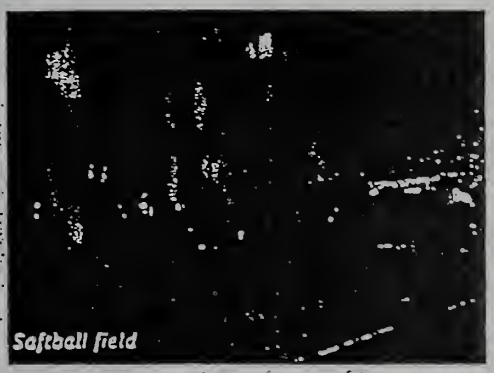
Mission Creek Park - Bank Treatment

- If pilings must be removed, they will be replaced, if permitted by regulatory agencies, in locations acceptable to the Mission Creek Conservancy. Alternative perching opportunities may be provided acceptable to all parties.
- Consider provision of additional piling and/or floats for roosting habitat.
- Develop an appropriate vegetation program for Mission Creek that recognizes the tidal vegetation ranges: low marsh, high marsh, transition zone, and upland vegetation.
- Pickleweed will be retained to the extent possible. If existing pickleweed is disturbed, it will be replaced from existing stock as feasible.
- Maintain and expand gently sloping banks in the intertidal area to encourage foraging shore birds.
- Design storm water outfalls to minimize scouring and erosion of mudflats.

Owens Field:

Develop Owens Field (P7, P8, P9) to accommodate a variety of zones for active recreation such as a softball field, and in areas under the freeway, compatible recreation such as skateboarding, rollerblading and basketball.

Skateboard Park


Softball field

Triangle Square:

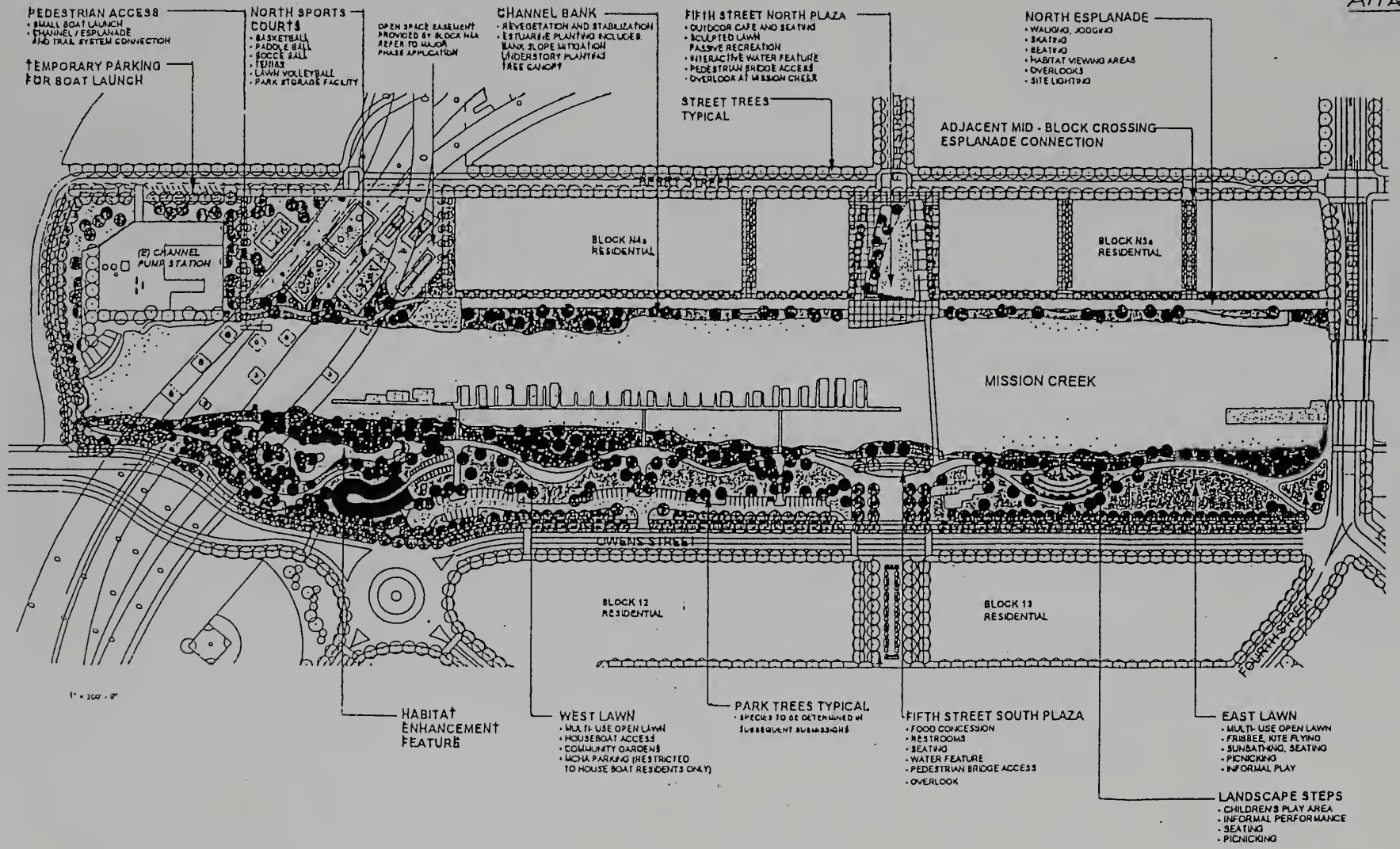
Develop the Triangle Square (P6) as a symbolic center for the community (similar to Sidney Walton Park where a central green space accommodates flexibility in programming and use), including uses for children and families and that invite daily and active use.

- Include features that symbolically establish a link to Mission Creek.

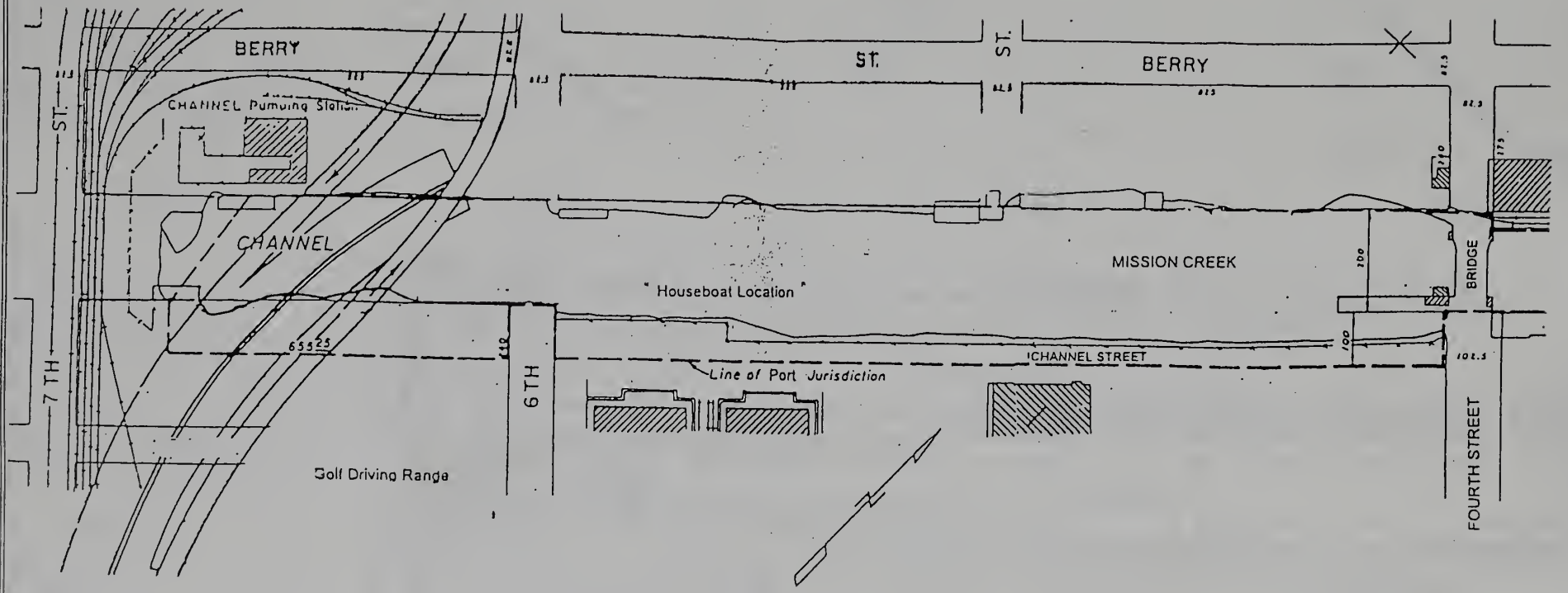
Playground

Neighborhood Park

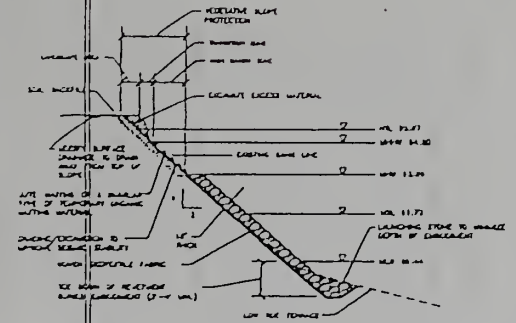
ATTACHMENT A



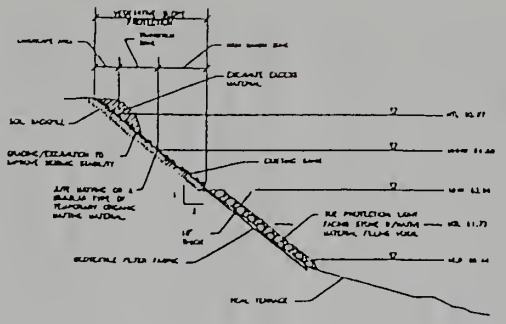
ATTACHMENT B



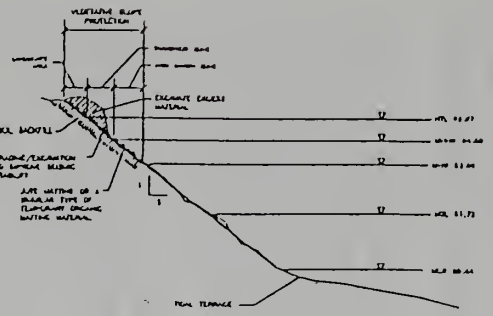
ATTACHMENT C



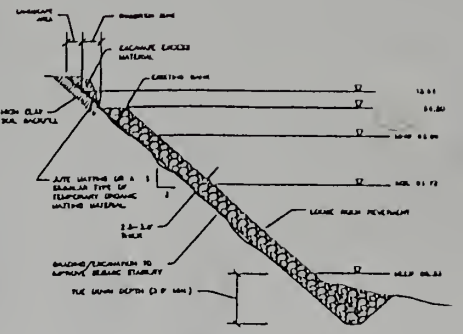
SECTION 1



SECTION 3



SECTION 4



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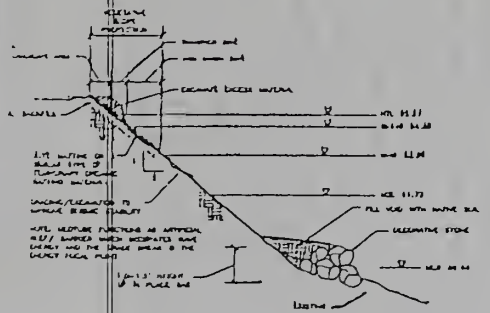
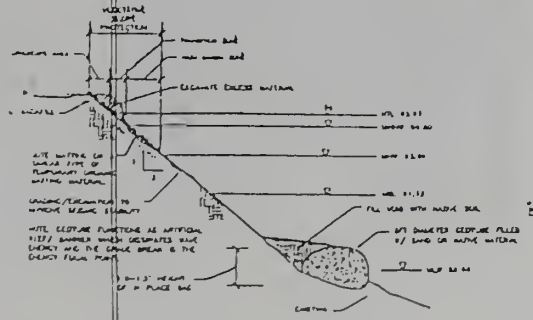
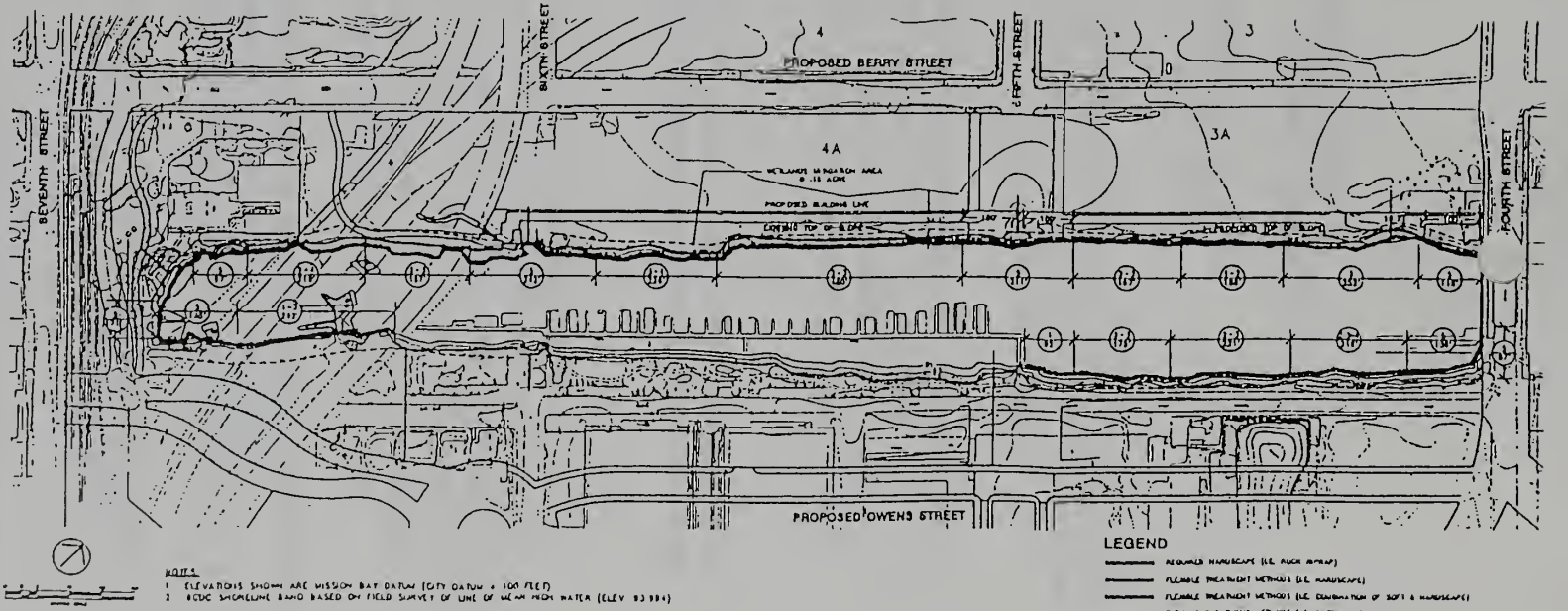


SECTION 2a



SECTION 2b



NOTES
1. ELEVATIONS SHOWN ARE MISSION BAY DATUM (CITY DATUM + 100' FEET)
2. BCDC SHORELINE BAND BASED ON FIELD SURVEY OF LINE OF MEAN HIGH WATER (ELEV 8.3 MSL)

LEGEND
- REQUIRED HARDSCAPE (I.E. ROCK REPRAP)
- FLEXIBLE TREATMENT METHODS (I.E. HARDSCAPE)
- FLEXIBLE TREATMENT METHODS (I.E. COMBINATION OF SOFT & HARDSCAPE)
- FLEXIBLE TREATMENT METHODS (I.E. SOFTSCAPE)
- SECTION NUMBER
- LENGTH OF IMPROVEMENT
- EXISTING SEWER OUTFALL (S)

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 00-25

WHEREAS, Under the City and County of San Francisco Charter, Section B3.581, the Port of San Francisco has the authority and duty to use, conduct, operate, maintain, manage, regulate and control lands within Port jurisdiction; and

WHEREAS, Under the provisions of the Mission Bay Redevelopment Area Interagency Cooperation Agreement, the Port of San Francisco has the right to review and approve the design for public open space on land under Port jurisdiction (approximately 3.2 acres of the15.6 acre Park is being developed on land under Port jurisdiction); and

WHEREAS, The Port Commission shall apply the standards set forth in the Mission Bay Redevelopment Plan and the Plan Documents to review the Mission Creek Park Open Space; and

WHEREAS, The Redevelopment Agency and Catellus Corporation, the Mission Bay developer, have conducted a series of public workshops and Mission Bay Citizens Advisory Committee meetings between September 1999 and January 2000 to develop the character and design of Mission Creek Park. These efforts have concluded in the publication and submittal of the Mission Creek Park Open Space Application on January 7, 2000 (the "Application"); and

WHEREAS, There are presently unresolved issues how the design of Mission Creek Park may impact two Port tenants (parking for the Mission Creek Harbor Association (MCHA) and loading/unloading for Carmen's Restaurant); and

WHEREAS, On February 29, 2000, Catellus representatives described the features of the Park to a Joint Meeting of the Port Commission and the Redevelopment Agency; now, therefore, be it

RESOLVED, that the Port Commission hereby approves the Basic Concept Plan for Mission Creek Park and shoreline enhancement on land under Port jurisdiction as described in the Application with two conditions: 1) the Port's approval of the Park Basic Concept Design as it affects the Mission Creek Harbor Association leasehold premises shall be conditioned upon the execution of a lease amendment or other agreement effectively adjusting the boundaries of the MCHA leasehold to relocate the MCHA parking and accommodate the open space improvements at no expense or material loss in revenue to the Port, and 2) the Redevelopment Agency and Catellus shall provide a loading/unloading zone to effectively serve the Port's commercial building located just south of the Fourth Street Bridge; and be it further

RESOLVED, that the Executive Director or his designee is hereby authorized to execute necessary documents, in such form as is approved by the City Attorney, to facilitate vehicle parking for MCHA and provide a loading/unloading zone for the Port property presently leased by Carmen's Restaurant.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of March14, 2000.

_____
Secretary

SAN FRANCISCO
PORT COMMISSION

MARCH 14, 2000
MINUTES OF THE REGULAR MEETING

DOCUMENTS DEPT.

MAR 2 4 2000

SAN FRANCISCO
PUBLIC LIBRARY

MEMBERS, PORT COMMISSION

HON. KIMBERLY BRANDON, PRESIDENT
HON. BRIAN McWILLIAMS, VICE PRESIDENT
HON. DENISE McCARTHY
HON. MICHAEL HARDEMAN
HON. PIUS LEE

DOUGLAS F. WONG, EXECUTIVE DIRECTOR

CITY & COUNTY OF SAN FRANCISCO
PORT COMMISSION

MINUTES OF THE MEETING
MARCH 14, 2000

1. **ROLL CALL**

Commission President Kimberly Brandon called the meeting to order at 4:04 p.m. Present were: Commissioners Kimberly Brandon, Brian McWilliams, Denise McCarthy, Michael Hardeman and Pius Lee.

2. **APPROVAL OF MINUTES** - February 22, 2000 Special & Regular Meeting

ACTION: Commissioner Hardeman moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the minutes of the February 22, 2000 Special and Regular meetings were adopted.

3. **EXECUTIVE**

A. Executive Director's Report: Mr. Douglas Wong reported the following:

1) Teatro Zinzanni Opening
Opening night is March 15, 2000, with a schedule to run through April 30, 2001. There will be five performances per week (Wednesday through Sunday). Tickets are priced at $125 per person. Parking is available at Pier 27/29 for a $10 fee.

Commissioner Hardeman commented that the Teatro Zinzanni was a spectacular show and encouraged everyone to see it.

2) Cruise Line Briefing
During the past two weeks, Port staff, headed by Peter Dailey, implemented an outreach program to current and prospective cruise line customers updating key executives regarding the new Cruise Terminal development at Piers 30/32. Members of the maritime staff along with members of the San Francisco Cruise Terminal development team traveled to Princess and Crystal cruise line's offices and gave the Port's two leading cruise customers an in-depth briefing of the project and asked for their technical input into the cruise terminal design and operation. Port staff gained valuable information from the lines that will assist the Port in constructing the finest cruise terminal in the world. Additionally, both the Port staff and members of the SFCT development were active in last week's Seatrade cruise conference in Miami. SFCT and the Port exhibited information and models of the new cruise terminal development at this conference that attracts the industry's key decision-makers. Several individual meetings were held with itinerary planners from the major cruise lines in Florida. The Bryant Street development earned stellar comments from cruise lines and a good amount of excitement was generated.

3) Pier 1½ - 5 RFP
The RFP was issued on March 10 and a pre-submittal conference is scheduled for March 30. The proposals are due June 14. Staff will make its recommendation to the Commission at its August 22nd meeting.

4) Ballpark Schedule
March 31 and April 1 – Exhibition games at 7:30 p.m.
March 31 – 10:30 a.m. to 12 noon – dedication of Willie Mays Plaza and Statue.
April 8 – 12 noon to 3:00 p.m. – public walk in the ballpark.
April 11 – 1:05 p.m. - opening day
April 11 – 11 a.m. to 8:00 p.m. – Pier 30/32 Giants/KNBR Opening Day Splash.

B. Resolution Designating the Plaza at the Main Entrance to Pacific Bell Ballpark located southeasterly of the intersections of King Street and Third Street as Willie Mays Plaza. (Resolution No. 00-18)

Veronica Sanchez, Governmental Affairs Manager, requested Commission's approval to designate the plaza at the main entrance to Pacific Bell Ballpark located southeasterly of the intersections of King Street and Third Street as Willie Mays Plaza.

ACTION: Commissioner Hardeman moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; Resolution No. 00-18 was adopted.

4. CONSENT CALENDAR

5. MARITIME

A. Approval of First Amendment to the Non-Exclusive Management Agreement with Marine Terminals Corporation for Pier 80. (Resolution No. 00-19)

Mr. Peter Dailey, Director of Maritime, indicated that the Port entered into a five-year Non-Exclusive Management Agreement with Marine Terminals Corporation on December 18, 1997. Under the terms of the Agreement, Marine Terminals Corporation ("MTC") operates the Port's Omni Terminal at Pier 80. Cargo operations were consolidated at Pier 80 in January of 1998 and the Pier 80 terminal now handles both container and breakbulk cargo. The relationship between MTC and the Port has been successful, with volume and revenue increases resulting from the addition of six new shipping lines. Prior to entering into an Agreement with MTC, the Port had a contractual relationship with Stevedoring Services of America ("SSA") to operate the cargo facility at Pier 94/96. MTC operated the Port's newsprint facility at Pier 27.

In the early 1990's the Port experienced significant business reversals at Pier 96 that reduced the volume of the shipping business and resulted in a loss of the needed critical mass necessary for SSA to break even financially. In June 1995, the Port Commission approved payment of a management fee to SSA to cover their

anticipated losses. In 1997, with payments to SSA anticipated to exceed revenue from cargo operations, the Port began exploring other options for the terminal operations at the Port of San Francisco. This led to the eventual consolidation of operations at Pier 80 and the change to MTC as the terminal operator.

Under the current financial terms of the Agreement, MTC pays the Port an annual use fee of $400,000 per contract year to be paid monthly. MTC receives 100% of wharfage and dockage from shipping lines already under contract with the Port on January 1, 1998. The Port receives 50% of wharfage and 100% of dockage for shipping lines that came to the Port after January 1, 1998. Crane revenues are shared equally between MTC and the Port.

Port volumes have grown from 17,700 containers in 1997 to 39,500 in 1999, with occasional breakbulk calls for steel, newsprint, and rice. Revenue from cargo operations during the first year of the Agreement (Calendar Year 1998) was approximately $480,000 and increased to $625,000 in Calendar Year 1999.

The Port is proposing an amendment that includes items that were not addressed in the original Agreement that will ensure a division of revenue that is equitable and supports the economic viability of the Pier 80 cargo operation. Specifically, the amendment addresses the rights of MTC to allow the use by third parties of portions of the premises not directly used by MTC for cargo vessel operations and outlines the division of revenue from such use, clarifies certain rent credit issues related to further compensation to MTC, increases crane rental compensation received by the Port, and provides for reimbursement to MTC for specific capital improvements.

Proposed First Amendment to Management Agreement

1. Financial Terms

   A. MTC will be allowed to retain 100% of any revenues generated by third party use in support of cargo activities. Port will receive 50% of any revenues if activity is not in support of cargo activities.
   B. Rent received from Nippon Sharyo USA, Inc. under its Port Lease No. 12644, dated May 1, 1999 for premises located at Pier 80 Shed A will be credited against MTC's Annual Use Fee. Nippon Sharyo USA imports Caltrain railcars by vessel, for which the Port receives wharfage and dockage, and assembles them in Shed A. This use of the premises for cargo support activities entitles MTC to 100% of this revenue.
   C. Port's percentage of Tariff Revenues collected for Crane Rental will be increased from 50% to 65% resulting in increased revenue to Port of approximately $100,000.
   D. Port will reimburse MTC for completion of specific Capital Improvements which benefit the Port's cranes and its gate at Pier 80.

This proposed amendment will improve the economic viability of MTC's cargo operations at Pier 80 and through increased crane rental allows the Port a greater share of future growth.

Mr. Dailey requested Commission's approval of the first amendment to the Non-Exclusive Management Agreement with Marine Terminals Corporation at Pier 80.

In response to Commissioner McCarthy's inquiry on how the support of cargo activities is defined, Mr. Dailey responded that it is a relatively specific use. It pertains to the movement of cargo to and from ship at the pier or if a trucking company needs to store containers that were unloaded off a vessel for a long-period of time or lay down space for construction materials which will be exported, it could be directly attributed to cargo.

Since there are also non-cargo related activities, Commissioner McCarthy inquired about the priority system. Mr. Dailey replied that MTC must have prior written approval from Port staff for either non-cargo or cargo-related activities on the pier. MTC cannot unilaterally enter into agreements without the Port's prior approval as the Port retains complete control of the pier.

Commissioner Brandon inquired about the amount of rent that the Port will receive. Mr. Dailey replied that the annual rent is approximately $300,000 annually for the use of Shed A.

ACTION: Commissioner Lee moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; Resolution No. 00-19 was adopted.

6. REAL ESTATE

7. FACILITIES & OPERATIONS

A. Authorization to negotiate and execute a personal services contract with the Johns/Rife Group of San Francisco, for specialized move coordination services for the Port of San Francisco's move to Pier 1 in an amount not to exceed $90,000.00 (Resolution No. 00-20)

Mr. Alex Lee, Director of Facilities & Operations indicated that his staff will be presenting their respective projects. Mr. Lee acknowledged and recognized Cliff Jarrard and his staff for their excellent work. He also introduced Tom Peterson, the Port's general maintenance superintendent, and welcomed him to the Port.

Ms. Mary Ilyin, Project Manager, gave a brief presentation of the project and requested Commission's authorization for staff to negotiate and enter into a contract with the Johns/Rife group for specialized move coordination services for the Port's relocation project, at a cost not to exceed $90,000.

ACTION: Commissioner McCarthy moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; Resolution No. 00-20 was adopted.

B. Authorization to execute a contract modification to Contract No. 2613 to include the Alternate Bid Item "Breakwater" to the Downtown Ferry Terminal Project, in an

amount not to exceed $3,497,760. (Resolution No. 00-21)

Ms. Nita Mizushima, Project Manager, presented the above item and requested the Commission to authorize staff to execute a contract modification to Contract No. 2613 to include the Breakwater to the Downtown Ferry Terminal Project and seek a supplemental appropriation. Ms. Mizushima indicated that this modification will allow the Port to complete the breakwater element of the project which is needed to shelter the ferry berthing in the southern basin during adverse weather conditions. The breakwater, originally part of the Base Bid scope of work, was extracted as an alternative bid item prior to bidding to ensure that the Port had sufficient funds to award the contract. The construction will commence mid-summer and the anticipated completion date is January 2001.

Commissioner McCarthy inquired if the monies were in place. Ms. Mizushima replied that all of the federal monies were in place except for the Port operating fund. Mr. Alex Lee clarified that staff did not know what the shortfall was until after the bids were received and the breakwater was taken out as an alternate bid item. Mr. Kutnick indicated that staff has planned for this but was not able to put into the capital plan sooner.

Ron Fell indicated that last fall he saw a rendering that showed a finger pier around Howard Street, similar to the fishing pier at Pier 7. He asked if this has the same physical structure. Ms. Mizushima replied that it is a straight finger pier but different than Pier 7 in that there will be no public access. There is an accommodation for public access but it would be a different bid item.

ACTION: Commissioner Hardeman moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; Resolution No. 00-21 was adopted.

C. Authorization to advertise for competitive bids for Contract No. 2665, "Pier 48 Interior Fire Damage Repair." (Resolution No. 00-22)

Mr. Ed Byrne, Senior Civil Engineer, indicated that on November 26, 1996, a fire at the east end of Pier 48 destroyed the interconnecting wood frame structure and caused substantial structural damage to the steel frames, walls, and roof at the easterly end of Sheds A and B on the pier. The fire caused significant deformation of steel trusses and caused precast concrete wall panels that make the exterior walls of the sheds to move from their original position. In 1998, the building shell repair and reconstruction work was completed.

This contract completes the interior portion of the fire damage repair. The contract includes the design and installation of a code upgrade fire sprinkler system, the installation of the restrooms, the building's electrical and mechanical systems and provisions for access and egress in compliance with the current Building Code and ADA requirements. The Port's insurance carrier has reviewed the Interior Repair Project contract documents and verified that the scope of work complies with the insurance coverage available under the insurance policy. Therefore, the cost of this work will be covered by the Port's property insurance. The current cost estimate for

the construction work is $1,540,000. He requested the Commission to authorize staff to advertise Contract No. 2665, Pier 48 Interior Fire Damage Repair.

Commissioner Brandon inquired if the property would be ready for lease once the project is completed. Mr. Byrne replied that the amount of fire damage sustained by the facility triggers a code required seismic upgrade. There is an ongoing negotiation and discussion on this issue.

ACTION: Commissioner McCarthy moved approval; Commissioner Hardeman seconded the motion. All of the Commissioners were in favor; Resolution No. 00-22 was adopted.

D. Authorization to advertise for competitive bids for Contract No. 2666, "China Basin Shoreline Stabilization Project." (Resolution No. 00-23)

Mr. Ken Chu, Associate Civil Engineer, indicated that Port staff and Engineering consulting team have prepared the required plans and specifications to bid the contract for construction of the shoreline stabilization project at China Basin. The construction project will provide approximately 830 linear feet of new shoreline protection. The shoreline protection will be provided along the southern edge of China Basin from the Third Street Bridge to the edge of Pier 48. The project will include removal of concrete rubble debris and placement of new riprap. He requested the Commission to authorize staff to advertise Contract No. 2666.

ACTION: Commissioner Hardeman moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; Resolution No. 00-23 was adopted.

E. Authorization to award Contract No. 2664, "Hyde Street Harbor Landside Improvements Project," to the lowest responsive, responsible bidder, Proven Management, Inc. (Resolution No. 00-24)

Ms. Mojgan Yousefkhan, Project Manager, indicated that the project was previously a component of a combined landside and waterside project, for which Port staff received construction bids in excess of budget, resulting in the rejection of all bids in July 1999. The project has since been divided into two separate projects and redesigned to achieve cost savings. Ms. Yousefkhan thanked previous managers for their work on the project: Joe Roger, Carleen Ho, Ed Byrne and Nita Mizushima.

Commissioner McCarthy inquired about the project completion date. Ms. Yousefkhan replied that the anticipated completion date is November 1, 2000.

ACTION: Commissioner Lee moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; Resolution No. 00-24 was adopted.

8. PLANNING & DEVELOPMENT

A. Informational Report on Project Schedule and Formation of Advisory Group for the

Pier 70 Opportunity Area Development Project.

Anne Cook, Manager of the Waterfront Development Projects, indicated that the Port's Waterfront Land Use Plan designates a 16-acre portion of Pier 70 ("Opportunity Area") where future non-maritime uses will be permitted. The Opportunity Area is between 18th and 21st Streets and is adjacent to the ship repair operations of the San Francisco Drydock, Inc. Currently, the site consists of several structures, including three historic Union Iron Works buildings that have been designated in the plan for preservation and adaptive reuse and several acres of vacant paved and unpaved land.

The Waterfront Plan promotes non-maritime uses for the Opportunity Area to facilitate the preservation and renovation of the historic structures and to allow for increased public access to the waterfront. The allowable uses designated in the Plan include assembly and entertainment general office, industrial, museums, open space, retail, recreational and community facilities, warehousing, academic institutions, as well as additional maritime uses.

Pier 70 is historically significant because it is the oldest, largest and most intact historic industrial complex in the City. The Waterfront Plan and several historic resource studies commissioned by the Port recommend maximum preservation of Pier 70 buildings and other structures. The Waterfront Plan further designates the three Union Iron Works buildings in the Opportunity Area for preservation and adaptive reuse. Port staff are reviewing various preservation options that will maximize preservation, allow for the use of historic rehabilitation tax incentives and be compatible with existing and future maritime uses elsewhere at Pier 70.

As recommended in the Waterfront Plan, an Advisory Group is being established to provide input and guidance for the development of this site. The Advisory Group's purpose is to provide input on the development goals and objectives prior to issuance of a RFQ/P for development of the site.

Developer interest in the Pier 70 area has increased over the past year, particularly in light of the planned Mission Bay and UCSF projects to the north and increasing demands for new multi-media office space and housing. In response to the existing market conditions, Port staff expect to bring an RFQ/P for development of the Opportunity Area to the Port Commission for its approval in late summer of this year. In addition to the formation of the Advisory Group, Port staff are currently involved in the following activities with regard to the Opportunity Area:

- An application has been submitted to the Environmental Protection Agency for a Phase II analysis of environmental conditions at Pier 70. This analysis will determine the scope and extent of hazardous materials cleanup that will be required prior to new development.

- Port staff are preparing an RFP for consulting services to assist the Port and its advisory group in determining alternative development concepts for the site. Working with Port staff, the consultants may recommend project boundaries, assess the costs of environmental remediation and site preparation including

required infrastructure, recommend preservation options and assess the financial viability of alternative development programs. Port staff expects to bring a recommendation for selection of a consultant to the Port Commission in April.

- Port staff are continuing to meet with community groups, City-wide interest groups, and City departments to provide information and get feedback on the development of the Opportunity Area.

- Port staff are continuing to explore short-term interim leasing proposals that generate revenues and are compatible with the future development of the site.

The advisory group will begin meeting regularly in April 2000 and will continue meeting for several months. The meetings will be held near the Pier 70 site and will be open to the public.

Ms. Cook introduced Rich Hillis, the Planning & Development Project Manager for this project.

Commissioner McWilliams suggested that a representative from the Metal Trades be included in the advisory group. Ms. Cook concurred.

In response to Commissioner McCarthy's inquiry regarding the EIR process, Mr. Osmundson replied that staff is in the process of preparing a program level supplement to the Waterfront Plan EIR that covers Pier 70 and the property to the south. It introduces new land use alternatives and is expected to be completed in June.

B. Approval of Mission Creek Park Open Space Concept Design for area within Port Jurisdiction. (Resolution No. 00-25)

Mr. Dan Bell, Planning & Development, indicated that the Commission received an informational presentation of the above-mentioned item at its February 29th joint hearing with the Redevelopment Agency. He asked the Commission to approve the concept design for the Mission Creek Park Open Space.

Eric Harrison, Catellus, indicated that this is the initial review and it sets out the basic design of the Mission Creek Park Open Space. He addressed the issues raised at the joint hearing.

Commissioner McWilliams inquired about parking for Carmen's Restaurant. Mr. Harrison responded that there is no dedicated parking lot for Carmen's other than the on-street parking which DPT will enforce.

Commissioner McCarthy thanked Mr. Harrison and Catellus for continuing to work on the issues raised by the public.

ACTION: Commissioner McCarthy moved approval; Commissioner Hardeman seconded the motion. All of the Commissioners were in favor; Resolution No. 00-25 was adopted.

9. FINANCE & ADMINISTRATION

10. NEW BUSINESS / PUBLIC COMMENT

Ricardo Ramirez, Pacific Cement, indicated that under his lease with the Port, he has two commitments to fulfill: (1) maritime activity and (2) pilot program for clean fuels. There is a concern with the community about the NOx and PMs in the air caused by heavy construction trucks. Mr. Ramirez entered into a program with the Lubrizol Corporation who has a product that they will be using in their facility. John Gemmel is a representative from Lubrizol and will be presenting the product they intend to use.

John Gemmel, Manager of the PuriNOx Project at the Lubrizol Corporation, provided the Commission a brief description of PuriNOx Performance System. PuriNOx fuel when compared to commercial diesel fuel, reduces NOx emissions from compression initiated, direct injection engines between 8 and 20%. Particulate and CO emissions are reduced by greater amounts. Specific reductions depend on engine type.

Commissioner Brandon inquired about the cost of PuriNOx in comparison to diesel fuel. Mr. Gemmel replied that the cost will be comparable to diesel fuel. The PuriNOx fuel consist of 20% by weight water. It would be the trade out of the water content that will pay for the additive package, the amortization of the blending unit and any other costs.

Commissioner Brandon thanked Mr. Ramirez for sharing the information to the Commission and for being a good corporate neighbor. Mr. Ramirez added that in his commitment to the Port, his firm will start with a baseline test and every quarter thereafter and report back to the Port.

11. EXECUTIVE SESSION

ACTION: Commissioner Hardeman moved approval; Commissioner McCarthy seconded the motion.

At 5:20, the Commission withdrew to executive session to discuss the following.

(1) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8. ***This session is closed to any non-City/Port representative.****

a. Property: Triangle Parking Lot (SWL 300/301)
Personal Negotiating: Port of San Francisco: Theresa Picon, Director of Real Estate
*Fisherman's Wharf Restaurant Association: Tim McDonnell

b. Property: Jelly's – Dance Café at Pier 50
Person Negotiating: Port of San Francisco: Theresa Picon, Director of Real Estate
*Jelly's-A Dance Café: Ricci Cornell

c. Property: Red's Java House at Pier 30
Person Negotiating: Port of San Francisco: Theresa Picon, Director of Real Estate

* Red's Java House at Pier 30: Steve Reilly

d. Property: Pier 94/96
Person Negotiating: Port of San Francisco: Peter Dailey, Maritime Director
*Vulcan: Bob Sears

e. Property: USS Iowa berthing @ Pier 80
Person Negotiating: Port of San Francisco: Peter Dailey, Maritime Director
*USS Iowa: Secretary of the Navy

f. Property: Union Pacific Railroad @ Pier 80
Person Negotiating: Port of San Francisco: Peter Dailey, Maritime Director
*Union Pacific Railroad: Bob Starzell

g. Property: Southern Waterfront
Person Negotiating: Port of San Francisco: Paul Osmundson, Director Planning and Development
*RMC Lonestar @ Pier 80: Harry Peppart
*ISG Resources, Inc. @ Pier 90: Clint Kurtz
*Bode Gravel/Mission Valley Rock @ Pier 92: Dan Boardman
*British Pacific Aggregates, Corp. @ Pier 94/96: John Chambers
*Waste Management, Inc. @ Pier 70: Jack Isola
*Grosvenor Bus Lines, Inc. @ Pier 94/96: Ken Marciano

h. Property: SS Lurline @ Pier 35
Person Negotiating: Port of San Francisco: Paul Osmundson, Director of Planning & Development
*SS Lurline: David Martin

i. Property: Pier 30/32 and SWL 330
Person Negotiating: Port of San Francisco: Paul Osmundson, Director of Planning & Development
*San Francisco Cruise Terminal LLC: Glen Elkington

j. Property: Rincon Park Restaurant at Folsom and Embarcadero
Person Negotiating: Port of San Francisco: Paul Osmundson, Director of Planning and Development
*Nice Ventures Inc.: Reed Hearon

12. RECONVENE IN OPEN SESSION

At 8:40 p.m., Commissioners Brandon, McWilliams, McCarthy and Lee returned from executive session and convened in public session. Commissioner Hardeman left at 6:15 p.m.

ACTION: Commissioner McWilliams moved approval to not disclose any information discussed in the executive session; Commissioner Lee seconded the motion. All of the Commissioners were in favor.

The meeting was adjourned at 8:40 p.m.

SAN FRANCISCO
PORT COMMISSION

DOCUMENTS DEPT.

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REGULAR MEETING
4:00 P.M., TUESDAY, MARCH 28, 2000
Suite 3100, Ferry Building, S.F. CA 94111

AGENDA

1. **ROLL CALL**

2. **APPROVAL OF MINUTES** - February 29, 2000 Special Meeting
   - March 14, 2000 Regular Meeting

3. **EXECUTIVE**

   A. Executive Director's Report

4. **CONSENT CALENDAR**

5. **MARITIME**

   A. Approval of Landing Right License L-12912 for Golden Gate Bridge, Highway and Transportation District at the China Basin Ballpark Ferry Terminal and Pier 48. (Resolution No. 00-26) (Staff report provided to the Commission.)

6. **REAL ESTATE**

   A. Approval of Changes in Parking Rates for the Triangle Parking Lot bounded by Jefferson Street, Taylor Street and The Embarcadero in Fisherman's Wharf. (Resolution No. 00-27) (Staff report provided to the Commission.)

7. **FACILITIES & OPERATIONS**

8. **PLANNING & DEVELOPMENT**

   A. Approval of Amendments to Port Park Code Covering Certain Park and Public Access Areas Located on Port Property. (Resolution No. 00-28) (Staff report provided to the Commission.)

9. **FINANCE & ADMINISTRATION**

10. **NEW BUSINESS / PUBLIC COMMENT**

    Public comment is permitted on any matter within Port jurisdiction and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. It is strongly recommended that public comments be submitted

in writing so they can be distributed to all Commissioners for review. Please fill out a speaker card and hand it to the Commission Secretary. If you have any question regarding the agenda, please contact the Commission Secretary at 274-0406.

11. EXECUTIVE SESSION

A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

B. CLOSED SESSION

(1) Discussion of the Executive Director's compensation for FY 2000/2001.

(2) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8. ***This session is closed to any non-City/Port representative.****

a. Property: Triangle Parking Lot (SWL 300/301)
Personal Negotiating: Port of San Francisco: Theresa Picon, Director of Real Estate
*Fisherman's Wharf Restaurant Association: Tim McDonnell

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to discuss real estate negotiations between the Port and the Fisherman's Wharf Restaurant Association regarding Port property located at SWL 300/301.

b. Property: USS Iowa berthing @ Pier 80
Person Negotiating: Port of San Francisco: Peter Dailey, Maritime Director
*USS Iowa: Secretary of the Navy

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to discuss negotiations regarding berthing for the USS Iowa @ Pier 80.

c. Property: Western Pacific Property @ 25th & Illinois
Person Negotiating: Port of San Francisco: Paul Osmundson, Director of Planning and Development.
*Municipal Railway: Kerstin Magary

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to discuss real estate negotiations regarding the Western Pacific Property @ 25th & Illinois.

d. Property: Port Property located at Seawall Lot 337
Person Negotiating: Port of San Francisco: Paul Osmundson, Director of Planning & Development
*Municipal Railway: Kerstin Magary

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to discuss real estate negotiations between the Port and CBBC regarding Port property located at SWL 337.

e. Property: Muni Metro East Kirkland Bus Yard
Person Negotiating:
Port of San Francisco: Douglas F. Wong, Executive Director
*Municipal Railway: Kerstin Magary

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to discuss real property negotiations between the Port and Muni regarding the Muni Metro East Kirkland Bus Yard.

12. RECONVENE IN OPEN SESSION

A. Possible report on actions taken in closed session pursuant to Government Code 54957.1 and San Francisco Administrative Code 67.14.

B. Vote in open session on whether to disclose any or all executive session discussions pursuant to Government Code 54957.1 and San Francisco Administrative Code 67.14.

13. ADJOURNMENT

Staff Reports: Explanatory Documents available to the public can be reviewed and copied at the Ferry Building, Suite 3100 or by contacting the Port Receptionist at 415-274-0400.

MARCH/APRIL 2000

CALENDAR OF UPCOMING PORT MEETINGS - OPEN TO THE PUBLIC

Date	Time	Group	Location
March 23	4:00 p.m.	BCDC/Port Commission Committee Meeting	Port Commission Room Ferry Building
March 28	4:00 p.m.	Port Commission	Port Commission Room Ferry Building
April 11 (**Cancelled**)	4:00 p.m.	Port Commission	Port Commission Room Ferry Building
April 18 (**Special Mtg**)	3:00 p.m.	Port Commission	Port Commission Room Ferry Building
April 19 (**Cancelled**)	4:00 p.m.	BCDC/Port Commission Committee Meeting	Port Commission Room Ferry Building
April 25 (**Cancelled**)	4:00 p.m.	Port Commission	Port Commission Room Ferry Building
April 27	4:00 p.m.	BCDC/Port Commission Committee Meeting	Port Commission Room Ferry Building

NOTES:

The San Francisco Port Commission meets regularly on the 2nd and 4th Tuesday of the month at 4:00 p.m. Contact Amy Quesada at 274-0406 to be placed on the mailing list for Commission meeting agenda.

The Fisherman's Wharf Advisory Group meets regularly on the 3rd Tuesday of the month. The regular meeting time and place is 9:00 a.m. at Scoma's Restaurant, Pier 47, Fisherman's Wharf.

The Northeast Waterfront Advisory Group meets regularly on the 1st Wednesday of the month at 4:00 p.m. in the Port Commission Room, Ferry Building.

The Ferry Building Waterfront Advisory Group does not have any scheduled meetings.

The Southern Waterfront Advisory Group meets regularly on the 2nd Monday of the month at 5:30 p.m. in the Port Commission Room, Ferry Building.

The Rincon Point-South Beach CAC meets regularly on the 3rd Monday of the month, from 5:00-7:00 p.m. at the South Beach Yacht Club (Pier 40 on The Embarcadero). Please contact Tiffany Bohee at 749-2481 for more information.

Port Website

Check out the Port's Website at **www.sfport.com**

Questions/Contacts

Pier 45 Advisory Group	Kirk Bennett	274-0545
Northeast Waterfront Advisory Group	Kirk Bennett	274-0545
Ferry Building Waterfront Advisory Group	Alec Bash	274-0539
Bryant Street Pier Advisory Group	Anne Cook	274-0483
Southeast Waterfront Advisory Committee	Braj Norris	274-0540
Port of San Francisco Reception	Liz Fitzgerald	274-0400

ACCESSIBLE MEETING INFORMATION

The Port Commission office is located on the third floor of the Ferry Building, Suite 3100. The Port office is wheelchair accessible. Accessible seating for persons with disabilities (including those using wheelchairs) will be available. The closest accessible BART and MUNI Metro station is Embarcadero located at Market and Spear Streets. Accessible MUNI lines serving the Ferry Building are the 9, 31, 32 and 71. For more information about MUNI accessible services, call 923-6142.

Accessible parking is provided in the small parking lots adjacent to the Ferry Building; three spaces in the north lot and two spaces in the south lot. These spaces are usually full during business hours. Due to the ongoing construction of the Mid-Embarcadero Roadway Project there are currently no curbside passenger unloading and loading areas. The area of the north parking lot adjacent to the north building entrance should be used for this purpose. Parking is available at Rincon (Spear between Mission & Howard), One Market Plaza (Spear between Market & Mission), Embarcadero Center 4 (Clay between Davis & Drumm) and 50 California Garage (Sacramento between Davis & Drumm). There are two accessible entrances into the World Trade Center (north wing of the Ferry Building); one on the north and the main entrance on the west (Embarcadero). The west entrance is provided with two doors in series that can be operated automatically. Both entrances lead to the elevator lobby. The two elevators are accessible and lead to the third floor location of the Port of San Francisco's office, Room 3100. The ramp from the lobby to the third floor is too steep to be considered an accessible path of travel. Public restrooms and drinking fountains on the first floor of the World Trade Center (north wing of the Ferry Building) are accessible, as well as the central restrooms within the Port's office area.

Assistive listening devices are available for use in the Port Commission Meeting. The following services are available on request 72 hours prior to the meeting: (1) American Sign Language Interpreters; (2) A Sound Enhancement System; (3) The use of a reader during the meeting and (4) copies of the agenda or minutes of the meeting in alternative formats. Please contact Kevin Jensen, the Port's ADA Coordinator at (415) 274-0555. Late requests will be honored if possible. Please contact the Commission Secretary at (415) 274-0406 should you require large print of the agenda.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City accommodate these individuals.

Know Your Rights Under the Sunshine Ordinance. Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, please contact Rachel Arnstine O'Hara, Clerk of the Sunshine Ordinance Task Force at 554-6171; fax 554-6177; e-mail address Rachel_ArnstineO'Hara@ci.sf.ca.us; City Hall, Room 362, One Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Ordinance Task Force, the San Francisco Public Library and on the City's Website at www.ci.sf.ca.us.

San Francisco Lobbyist Ordinance. Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Admin. Code 16.520 – 16.534) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street, #701, San Francisco, CA 94102, phone (415) 554-9510 or fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

NOTICE OF CANCELLED MEETING

THE REGULAR PORT COMMISSION MEETING SCHEDULED FOR
TUESDAY, APRIL 11, 2000 AT 4:00 P.M.
IS CANCELLED

A SPECIAL PORT COMMISSION MEETING
IS SCHEDULED FOR

TUESDAY, APRIL 18, 2000
AT 3:00 P.M.

in the Port Commission Room
Suite 3100, Ferry Building
San Francisco, CA 94111
(415) 274-0406

C04112000

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Fax 415 274 0528
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MEMORANDUM

March 22, 2000

TO: MEMBERS OF THE PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Brian McWilliams, Vice President
Hon. Denise McCarthy
Hon. Michael Hardeman
Hon. Pius Lee

FROM: Douglas F. Wong
Executive Director

SUBJECT: Approval of Landing Rights License L-12912 for Golden Gate Bridge, Highway and Transportation District at the China Basin Ballpark Ferry Terminal and the Pier 48, Temporary Ballpark Ferry Terminal

DIRECTOR'S RECOMMENDATION: APPROVE LANDING RIGHTS LICENSE L-12912

Background. Approval of this license is required so that the Golden Gate Ferry Division can provide ferry service to and from the China Basin Ferry Terminals for baseball games held at Pacific Bell Ballpark. This License includes the schedule of arrival and departures for the Giants year 2000 baseball season, fees to be paid for the landings ($20.00 per landing) and the standard Port and City requirements for operating such a service on Port Property. Additionally the standard landing rights License was amended with approval of the City Risk Manager as follows:

(a) To waive the security deposit provision;
(b) To provide for self-insurance coverage not less broad than coverages as stated in the license; and
(c) To exclude claims, liability, damage or loss resulting from the negligence or willful misconduct of the Port, City or their authorized representatives.

Recommendation: Port Staff recommends the approval of this license to enter into a landing rights agreement with the Golden Gate Bridge, Highway and Transportation District in order for the District to provide ferry services as outlined in the attached license document.

Prepared by: John Davey
Maritime Operations Manager

This Print Covers Calendar Item No. 5A

PORT COMMISSION
CITY & COUNTY OF SAN FRANCISCO

RESOLUTION NO. 00-26

WHEREAS, the Golden Gate Bridge, Highway and Transportation District desire to enter into a landing rights license with the Port for use of the China Basin Ferry Terminal and the Pier 48 temporary Ferry Terminal; and

WHEREAS, said License grants Golden Gate Bridge, Highway and Transportation District the rights to provide a scheduled service to and from the Pacific Bell Ballpark for Giants year 2000 baseball season; and

WHEREAS, the parties have entered into the standard landing rights license which license has been revised to include provisions waving the security deposit, permitting self-insurance coverage not less broad than found in the standard insurance provisions and revising the standard indemnity provisions, with the approval of the San Francisco City's Risk Manager; now, therefore, be it

RESOLVED, that the San Francisco Port Commission approves the Landing Rights License L-12912 with Golden Gate Bridge, Highway and Transportation District, in substantially the form of which is on file with the Secretary of the Port Commission for this agenda item; and be it further

RESOLVED, that the Port Commission authorizes the Executive Director to enter into this license.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of March 28, 2000.

_____
Secretary

CITY AND COUNTY OF SAN FRANCISCO

WILLIE L. BROWN, JR., Mayor

LANDING RIGHTS LICENSE No. L-12912

FOR

COMMON CARRIER FERRY SERVICE LANDING SLOT(S)

AT

THE CHINA BASIN BALL PARK FERRY TERMINAL
& PIER 48, TEMPORARY BALL PARK FERRY TERMINAL

BY AND BETWEEN

THE CITY AND COUNTY OF SAN FRANCISCO

THROUGH THE SAN FRANCISCO PORT COMMISSION

AND

Golden Gate Bridge, Highway and Transportation District.

SAN FRANCISCO PORT COMMISSION

KIMBERLY BRANDON, PRESIDENT
BRIAN McWILLIAMS, VICE PRESIDENT
MICHAEL HARDEMAN, COMMISSIONER
DENISE McCARTHY, COMMISSIONER
PIUS LEE, COMMISSIONER

Douglas F. Wong, Executive Director

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SAN FRANCISCO PORT COMMISSION

LANDING RIGHTS LICENSE
FOR COMMON CARRIER FERRY SERVICE LANDING SLOT(S)

THIS LANDING RIGHTS LICENSE (the "License") is made and entered into this 29th day of March, 2000_, by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, hereinafter called "City," operating by and through the SAN FRANCISCO PORT COMMISSION, hereinafter called "Port," as Licensor, and Golden Gate Bridge, Highway and Transportation District, hereinafter called "Licensee."

In consideration of the charges to be paid under this License and of the promises and agreements contained herein and to be performed pursuant hereto, the parties promise and agree as follows:

1. **Landing Rights Granted**. Port grants to Licensee, subject to all of the terms, covenants, and conditions of this License, the non-exclusive right to land common carrier ferry vessels solely for the purpose of passenger embarkation and debarkation at the The China Basin Ball Park Terminal and The Pier 48 Temporary Ball Park Terminal2 in the City and County of San Francisco, State of California as shown on Exhibit A attached hereto and made a part hereof. Said real property and all improvements and additions thereto and alterations thereof are hereinafter referred to as the "Landing Site". This License conveys no leasehold rights nor interest in the real property, improvements thereto, or water constituting the Landing Site.

2. **Commencement and Term of License**. Port does hereby grant this License effective _March 29, 2000 ("Commencement Date"), and it shall continue thereafter for a period of one (1) year (the "Term") unless sooner terminated as provided for in this License, including but not limited to Sections 3.2, 3.3 (e), 3.4 (g)and 15 of this License, subject to extension pursuant to the provisions of Section 17 of this License.

Licensee shall commence use of the Landing Site for the purpose intended under this License on the Commencement Date. If use is not begun by such date and if such use is not continuous thereafter and as set forth and specified in subsections 3.1(a), 3.4 (g) and Exhibit B, Licensee shall forfeit its right to use the Landing Site. The parties specifically agree the Port or City Shall not be liable for damages, if any resulting from the

inability of the Port or the City to deliver the landing site by the commencement date or in any way grant any of the landing rights enumerated in this lease by the commencement date.

As used herein "licensee" or "other licensees" shall mean other agencies or other operators of common carrier ferry passenger vessels who have entered or will enter into a license similar to this License with Port and operators of vessels used for special excursions who have entered or will enter into a Landing Rights Licenses for Casual Landings at the Landing Site.

3. Use.

3.1 Permitted Uses.

(a) Common Carrier Vessel Landing(s). The Landing Site shall be used for vessel landings of common carrier ferry passenger vessels operating for the public convenience and necessity in point to point sailings on specific Service Routes (as defined below) at specified Landing Slot(s) (as defined below), as set forth in the Landing Slot Schedule attached hereto and made a part hereof as Exhibit B, on that portion of the Landing Site as indicated on Exhibit A. A "Service Route", as used herein is defined as a continuous trip between two or more points,at least one of which is the Landing Site. A "Landing Slot", as used herein is defined as a single ten (10) minute time interval reserved for Licensee to land a vessel at the Landing Site for purposes of passenger embarkation and/or debarkation. Landing Slots shall be used solely for the Service Routes between Larkspur, CA and the Landing Site unless Licensee obtains the prior written consent of Port, which consent shall not be unreasonably withheld.

(b) Casual Landing(s). Licensee shall not use the Landing Site for any Casual Landing unless Licensee has entered into a separate license agreement with the Port for Casual Landing at the Landing Site. A "Casual Landing", as used herein, is defined as the landing, berthing, loading or unloading of passenger vessels for non-common carrier special excursion service sailing in, along, around and through San Francisco, San Pablo and Richmond Bays. To the extent possible Port shall (i) give priority for Casual Landings to licensees who also has a license for common carrier ferry service at the Landing Site over a vessel operator which does not have a license for common carrier ferry service at the Landing Site;(ii) require that vessels making Casual Landings at the Landing Site have Coast Guard Certificates of Inspection; and (iii) require such operator to utilize its own ramps, gangways and equipment.

(c) Layover(s). Except for those Landing Slots which are specified on Exhibit B as "Layovers", a "Layover" as used herein, shall be defined as a period of time that a vessel is authorized to remain at the Landing Site exceeding the prescribed Landing Slot standard of ten (10) minutes. In the event that Licensee wishes to Layover, Licensee shall request Port approval by submitting a written request including date, time and duration of Layover no later than 48 hours prior to the Layover. Such approval shall be granted by Port in its sole and absolute discretion, subject to such terms as specified by Port, including, without limitation, fees and duration for such Layover. Licensee understands that the right to Layover may be revoked upon 24 hours notice at the sole discretion of the Port. In cases of emergency, Licensee may Layover for no fee for a period not to exceed sixty (60) minutes so long as (i) prior to the Layover, Licensee notifies Port and other licensees who will or who may be affected by the Layover, and (ii) Licensee's vessel does not obstruct access by other licensees to the Landing Site. As used herein, "emergency" is defined as the inability of the vessel to vacate the Landing Site due to mechanical or other failure.

(d) Support Functions. The Landing Site also may be used for loading of ship's gear onto vessels, for service vehicle parking in designated spaces and for other support functions reasonably appurtenant to vessel landings, and for no other purposes. Parking of service vehicles shall be accommodated on a first-come-first-served basis. Licensee shall not park, nor cause to be parked, its vehicles in spaces other than those designated on Exhibit A. If Licensee's vehicles are parked outside the designated spaces, they shall be subject to tow at Licensee's expense. Changes in type or function of business or changes in use of the Landing Site shall be made only upon the express written consent of Port.

3.2 Coast Guard Certificates. The effectiveness of this License is expressly conditional upon Licensee, or the ferry service operator with which Licensee contracts pursuant to Section 9 (hereinafter "Agent"), maintaining a valid Certificate of Inspection from the U.S. Coast Guard for each vessel to be landed at the Landing Site. If such certificate is not obtained by the Commencement Date or are revoked, terminated, or expire at any time thereafter, this License shall be null and void and of no effect as to any such Service Route(s) or vessel for which the Coast Guard Certificate of Inspection has been revoked, terminated or expired, except that this License shall not be null and void as to any obligations owed by Licensee pursuant to Sections 4,5,10,13 and 14 hereof. Prior to the Commencement Date, Licensee shall submit to Port a complete list of all vessels which will land at the Landing Site, including the name,

the Coast Guard number, the length overall (LOA), the net registered tons and the capacity of the vessels. Copies of said list, and of the Coast Guard Certificate(s) of Inspection shall be attached hereto and made a part hereof as Exhibit C.

3.3 Advisory Committee. Licensee shall be a member of an Advisory Committee consisting of a representative of Port, of Licensee and of each other common carrier licensee of the Landing Site. The Advisory Committee shall serve in an advisory capacity to Port and may provide comments, objections, information and opinions (herein "Advisory Information") concerning operational matters at the Landing Site. Such Advisory Information will be considered by Port but shall in no way limit Port's rights or expand Port's duties under this License.

The Advisory Committee also shall handle the operational matters set forth below and shall establish written guidelines and procedures therefor. Port shall have the right, in its reasonable discretion, to approve the procedures and guidelines of the Advisory Committee. Such guidelines shall include provisions for notification to Port's designated agent and to other licensees for the operational matters set forth below. The Advisory Committee shall determine the dates, times, place and frequency of its meetings, if any. It shall have only the powers specifically set forth herein. Port reserves the right to resolve disputes concerning operational matters which disputes cannot be, or have not been, resolved within a reasonable time by the Advisory Committee; and further Port reserves the right to override the Advisory Committee's decisions if in Port's reasonable determination any such decision is contrary to the efficient operation of the Landing Site or is otherwise unreasonable.

If Licensee has an agreement with an Agent pursuant to Section 9, then this Section 3.3 and Sections 3.4 and 3.5 also apply to Licensee's Agent.

(a) Disruptions.

(i) A "disruption" is defined as the failure by Licensee or other licensees to land a vessel or to vacate the Landing Site within the scheduling guidelines for any specific Landing Slot(s), as set forth in the Landing Slot Schedule, Exhibit B, or causing interference with the orderly docking of vessels by other licensees, thereby causing delay and inconvenience at the Landing Site.

(ii) If Licensee knows, or has reason to believe, that Licensee is going to cause a disruption, or if Licensee cannot access the Landing Site due to a disruption, Licensee shall

follow the guidelines and procedures established in advance by the Advisory Committee.

(b) Temporary Change in Landing Slot Schedule

(i) A "temporary change" is defined as a change in the time interval for a specific Landing Slot, according to the Landing Slot Schedule (Exhibit B), which change shall be allowed for a period not to exceed six weeks.

(ii) Licensee may request a temporary change by notifying in writing each member of the Advisory Committee of such request at least 24 hours in advance. Licensee shall state the reason for the requested temporary change and the new time slot Licensee proposes.

(iii) The Advisory Committee, by majority vote, may grant a temporary change to Licensee for reasons due to use of a slower vessel, scheduled repair of a vessel or for other good reason, in the Advisory Committee's discretion. No temporary change shall be approved if it overlaps with another Landing Slot.

(iv) The Advisory Committee shall notify in writing all licensees and Port's designated agent of the temporary change.

(c) Maintenance Inspection and Reporting. A non-Port member of the Advisory Committee shall accompany a Port representative during monthly inspections of the barge, in accordance with Section 10 below.

In addition to Licensee's individual obligation to report maintenance and repair items in accordance with section 10 below, the Advisory Committee also may notify Port in writing if it deems that maintenance or repairs to the Landing Site are necessary. Upon such notification, Port shall promptly investigate the matter, and if Port determines in its reasonable judgment that such repairs are necessary, Port shall perform the same when reasonably practicable for Port to do so.

(d) Design Review. The Advisory Committee shall review any designs and specifications submitted to it by Licensee for modifications to the Landing Site barge, in accordance with Section 7 hereinafter set forth.

(e) Revocation of License.

(i) If two or more members of the Advisory Committee

determine that Licensee is causing an "inordinate number of disruptions within a particular period of time" (as defined in the guidelines in advance by the Advisory Committee), or that Licensee's disruptions are not justified (as set forth in the guidelines in advance by the Advisory Committee), or for other good reason (as determined by the Advisory Committee), and the Advisory Committee is unable to resolve the problem with Licensee, then, on behalf of the Advisory Committee, such members may give written notice to Port specifying the offending conduct, dates and Landing Slot(s) involved. Such notice shall also be given to Licensee, and Licensee may submit a written response to Port if it so desires.

(ii) Upon receipt of such written notice and/or response, Port may, in its discretion, give written notice to Licensee that Licensee is in jeopardy of having this License revoked. If Port receives three such written notices within a sixty-day period, Port may, in its sole discretion and after giving due consideration to Licensee's written response(s), if any, revoke this License or revoke one or more of Licensee's Landing Slots upon 24 hours written notice to Licensee.

(iii) Notwithstanding the procedure outlined in (i) and (ii) above, if Licensee recklessly operates its vessel(s) or commits some other egregious act, Port reserves the right, in its sole discretion, to give written notice to Licensee that Licensee is in jeopardy of having this License revoked. Licensee may submit a written response to Port if it so desires. Upon two such acts, Port may, in its sole discretion and upon 24 hours written notice to Licensee, revoke this License or revoke one or more of Licensee's Landing Slots.

3.4 Operational Requirements.

(a) Mutual Cooperation. Licensee shall cooperate mutually with other licensees and other permittees of Port using the Landing Site and approaches thereto, and will not unreasonably interfere with their operations. Licensee shall adhere to the time limitations and schedule provided in Exhibit B for each of its Landing Slots. In those instances where Port, in its discretion, has provided an agent at the Landing Site, such agent shall have the discretion to order Licensee's vessel(s) to vacate the Landing Site if it exceeds the time allowed under the Landing Slot or causes a disruption, as defined in section 3.3(a)(i).

Nothing in this License shall obligate Port to provide an agent at Landing Site, nor shall such presence obligate Port, its officers, employees or agents to take any action whatsoever. Licensee agrees that Port, its officers, employees and agents shall not be responsible for regulating traffic at the Landing

Site. If other licensees or permittees use the Landing Site during Licensee's assigned Landing Slots, such matter shall be handled by the Advisory Committee as set forth in Section 3.3 above.

(b) Sufficient Personnel. Licensee shall have sufficient personnel to immediately and efficiently secure the vessel to the Landing Site, to control Licensee's crowds, to provide for safe embarkation and debarkation and to direct Licensee's passengers to and from the barge and ramp area. Licensee shall use its best efforts (i) to ensure that in the ramp and barge areas marked on Exhibit A there is no drinking, no eating and no loitering by Licensee's passengers and (ii) to keep such areas of the Landing Site free and clean of litter and other debris generated by Licensee's passengers.

(c) Closing of Gangways/Ramps and Gates. At the conclusion of each assigned Landing Slot interval, Licensee shall be responsible for closing any ramps or gates to the public and for properly securing the gangways.

(d) Two-Way Communication System. Licensee's vessel shall have a two-way shore communication system capable of communicating with other vessels in the San Francisco Bay area and with the Landing Site. Port shall provide a public address system via telephone line, and Licensee shall have the right to use said system to make service-related announcements.

(e) Back-Up Vessel. If Licensee uses a back-up vessel for ferry service, which vessel has not been listed previously pursuant to Section 3.2, such vessel shall have a Coast Guard Certificate of Inspection. Prior to commencement of use of such vessel, Licensee shall provide Port with the Coast Guard Certificate of Inspection and with the name, the Coast Guard number, the length overall (LOA), the net registered tons and the capacity of such back-up vessel.

(f) Sunken or Disabled Vessel.

(i) In the event that a vessel operated by Licensee is disabled or is in danger of sinking, or shall in fact sink while located at the Landing Site, the approaches thereto, or while coming into or going from said Landing Site, or while turning, whether such disaster be partial or total and regardless of the cause thereof, as soon as possible Licensee will, at its own expense, remove the disabled vessel and leave the Landing Site and approaches thereto by land and by water free of any disabled vessels or wreckage. If in Port's opinion Licensee fails to remove any such obstruction promptly on demand, Port may remove it or cause it to be removed at the sole risk and

expense of Licensee.

(ii) If any disabled, sunken or damaged vessel temporarily prevents Licensee from landing its vessels at the Landing Site, Port shall use reasonable efforts, but is not obligated, to find another site where Licensee may land its vessels during the period that the Landing Site is obstructed. If Licensee utilizes such new site, Licensee's Landing Fee, as set forth in section 4.1(a), shall not be abated.

(iii) If the obstruction to the Landing Site is not the result of the act, neglect, default or omission of Licensee, its agents, employees, contractors or invitees, and another site is not available for Licensee's temporary use, Licensee shall be entitled to a pro rata reduction of its Landing Fee in accordance with the extent that Licensee is unable to use the Landing Site.

(iv) If the obstruction to the Landing Site is caused by Licensee or by its agents, employees, contractors or invitees, there shall be no pro rata reduction in Licensee's Landing Fee, but Licensee shall be liable to Port for the pro rata reduction in other licensees' Landing Fees, Casual Landing Fees, and Percentage Fees due to the inaccessibility of the Landing Site.

(g) Continual Use of Landing Slot(s).

(i) Except as set forth in Section (iii) below, if Licensee abandons or continuously fails to use any of its Landing Slots as set forth in Exhibit B for any seven-day period, this License shall cease and terminate or be forfeited with respect to each Landing Slot Licensee abandons or fails to use, unless Licensee shall have obtained the prior written consent of Port for the period of such temporary non-use.

(ii) Except as set forth in Section (iii) below, if Licensee fails to use any one Landing Slot more than 49% of the time within any two-week period, Licensee shall forfeit such Landing Slot unless Licensee shall have obtained the prior written consent of Port.

(iii) If the Landing Site is inoperable due to damage or destruction by one of the causes set forth in Sections 11.1 and 11.2, then the provisions of Sections 3.4(g)(i) and (ii) above do not apply.

(h) Reporting Accidents. Licensee shall notify Port in writing of any incident or accident involving personal injury or property damage which occurs on or in proximity of the Landing Site. Such notice shall be given within twenty-four hours after said incident or accident occurs. Failure to timely report such

incidents or accidents shall constitute a default under this License, pursuant to Section 15.1(b).

(i) Reporting Damage. Licensee shall report damage to the Landing Site in accordance with Section 10 below.

(j) Reporting Addition of Vessel(s). If Licensee adds any vessel(s) to its ferry service, Licensee shall notify Port in writing five (5) business days prior thereto. Licensee shall provide Port with the name, Coast Guard number, size and capacity of the vessel(s) and with a U.S. Coast Guard Certificate of Inspection in accordance with Section 3.2 above. Failure to notify Port of any additional vessels in the time period prescribed above may result in revocation of this License.

3.5 Operational Restrictions. Licensee's use of the Landing Site as provided for in this License shall be in accordance with the following limitations:

(a) Insurance. Licensee shall not do, bring, or keep anything in or about the Landing Site which will cause a cancellation of any insurance as required pursuant to this License covering the Landing Site.

(b) Waste. Licensee shall not use the Landing Site in any manner that will constitute waste, nuisance, or unreasonable annoyance.

(c) Damage. Licensee shall not do anything on the Landing Site that will cause damage to the Landing Site.

(d) Quiet Operation. Licensee shall conduct its operations in a quiet, orderly, and courteous manner, so as not to annoy, disturb, or offend neighboring buildings or tenants.

(e) Passenger Capacity. Licensee shall not transport passengers in excess of the passenger capacity as stated in a vessel's U. S. Coast Guard Certificate of Inspection or as otherwise limited by Port or governmental rules and regulations.

(f) No Obstructions. Licensee shall not place barriers or obstructions in those areas shown on Exhibit A as the barge portion of the Landing Site and as the ramp for egress and ingress. The areas so designated in Exhibit A shall remain clear of barriers or obstructions at all times. Except for the storage of gangways on the barge portion of the Landing Site, the Landing Site shall not be used as a storage place for any gangways, gear or equipment without the prior written consent of Port.

(g) Repairs and Fueling at Landing Site. Licensee shall

not fuel or repair (except for minor or emergency repairs) vessel(s) while at the Landing Site.

(h) Handling of Waste Material. Licensee shall not discharge, deposit, throw, or dump into the water or upon the Landing Site waste material of any kind, including, but not limited to, garbage, oil, sludge, refuse matter or sewage. In the event of a discharge of any type by Licensee, Licensee shall be responsible for all clean-up and remediation as provided for in Sections 12 and 14. Toilets on Licensee's vessel(s) shall be U.S. Coast Guard standard and shall not discharge waste into the water or in the vicinity of the Landing Site.

(i) Noise Control. Licensee shall not use any devices, nor operate or conduct any activity, nor allow any activities which violate any provision of the San Francisco Noise Control Ordinance. Any devices or activities which are subject to the San Francisco Noise Control Ordinance shall incorporate advances in the art of noise control developed for the kind and level of noise emitted or produced by such devices and activities, in accordance with regulations issued by the San Francisco Police Department.

(j) No Solicitation. Licensee is expressly forbidden to use any public address systems or other mechanical or hand operated voice or power operated megaphones in solicitation of business or for entertainment purposes, and shall not use or employ persons to solicit business either on the Landing Site or from aboard the vessel(s) or any area or location in the vicinity of the Landing Site.

(k) Signs. Licensee shall not place, construct, or maintain any sign, awning, banner, or other exterior decoration on the Landing Site without Port's prior written consent. Any sign that Licensee shall be permitted to place, construct, or maintain on Port property shall comply with all laws and regulations relating thereto, including but not limited to the Port Tenant Sign Guidelines and San Francisco Building Code requirements, and Licensee shall obtain all permits and approvals required by such laws and regulations. Port makes no representation with respect to Licensee's ability to obtain such approval. Licensee at its cost shall immediately remove all signs placed by it on the Landing Site at the expiration of this License or earlier if so requested by Port.

(l) Advertising. Licensee shall not place any advertisement or notice on any part of the Landing Site or approaches thereto, except in designated areas and as pre-approved by Port in writing in Port's sole and absolute discretion.

3.6 **Changes to Landing Slot Schedule**.

(a) Discontinuance of Use of Landing Slot(s)

Licensee may discontinue use of an assigned Landing Slot by notifying Port in writing no later than the fifteenth day of the month preceding the month in which Licensee intends to discontinue such use. A notification received by Port after the fifteenth day of a month shall not be deemed received until the fifteenth day of the following month, and the Landing Slot Fee, as defined in Section 4.1(a) hereinafter, shall not be adjusted until the first day of the month after such notification is deemed received. The Landing Fee, as defined in Section 4.1(a) hereinafter, shall be adjusted by deducting the charge for the discontinued Landing Slot, in accordance with the Landing Fee Schedule, Exhibit D. The discontinuance of such Landing Slot shall be made by the issuance by Port of a written modification to Exhibit B. Upon such issuance, the modified Exhibit B shall be incorporated into this License. Port does not warrant or guarantee that Licensee shall be assigned another Landing Slot. The discontinuance of a Landing Slot(s) by other licensees of the Landing Site shall not affect Licensee's Landing Fee during the Term.

(b) Addition of Landing Slot(s)

Port shall accept applications on its standard application form to add Landing Slot(s) during the Term hereof. Licensee shall give notice to other licensees of its application to add Landing Slot(s). Any addition of a Landing Slot shall be granted in writing in Port's sole and absolute discretion, except that Port agrees not to allow any new Landing Slot to interfere with any existing Landing Slots and Port shall consider any objections or comments it receives from the Advisory Committee. A new Landing Slot Schedule shall be made by the issuance by Port of a written modification to Exhibit B, and upon such issuance the modified Exhibit B shall be incorporated into this License. The Landing Fee, as defined in Section 4.1(a) hereinafter, shall be adjusted by adding the charge for the additional Landing Slot, in accordance with the Landing Fee Schedule, Exhibit D. The addition of Landing Slot(s) by other licensees of the Landing Site shall not affect Licensee's Landing Fee during the Term.

4. Fees.

(a) In consideration for the landing rights granted herein, Licensee will pay to Port, without offset or deduction, in the manner herein described, commencing on the Commencement Date and continuing throughout the Term of this License, Licensee shall pay a landing fee for use of the Landing Site in the amount of $20.00 per landing ("Landing Fee"), subject to adjustment as set

forth in Section 3.6, based on the Landing Fee Schedule attached hereto and made a part hereof as Exhibit D. Licensee shall pay the first monthly Landing Fee on or before the Commencement Date and thereafter shall pay the Landing Fee on or before the first day of each calendar month throughout the Term. If the Commencement Date is other than the first day of a month, the Landing Fee for that month will be charged according to the number of Landing Slot(s) scheduled in the period between the Commencement Date and the last day of the month. During the Term, there shall be no revision of the Landing Fee Schedule, except if this License is extended pursuant to Section 17.

(b) In the event that Licensee and Port agree that Licensee may retain landing rights after the expiration of the Term under the provisions of Section 17 hereof, on the first day of the first month of the extension period (the "Adjustment Date") and annually thereafter on each anniversary date of the Adjustment Date that such extension period remains in effect, the Landing Fee for such extended use shall be adjusted in Port's discretion pursuant to a review by Port of annual costs of operation, including, but not limited to, waterside maintenance and inspections, land side maintenance, utilities, security, garbage removal, and other miscellaneous costs including insurance, direct administrative costs, and capital reserves of the Landing Site. Nothing in this Section 4.1(b) shall be deemed to convey any rights exceeding those set forth in Section 3.

4.1 Layover Fee. In addition to the Landing Fee, as set forth above, Licensee shall pay Port a fee for layover of vessel, (the "Layover Fee") for each approved Layover of Licensee's vessels at the Landing Site. The Layover Fee shall be determined on a case by case basis at the sole discretion of the Port.

4.2 Manner of Payment. All payments due from Licensee to Port under this License shall be made to Port without abatement, deduction, set-off, prior notice or demand, in lawful money of the United States of America at Port's address for notices as set forth in Section 20 of this License, or to such other person or at such other place as Port may from time to time designate in writing to Licensee.

4.3 Miscellaneous Reporting. Licensee shall submit to Port on a monthly basis a passenger count by Landing Slot as specified on the Landing Slot Schedule. Licensee shall also submit to Port on a monthly basis a copy of the monthly report, if any, that Licensee is required to submit to the Metropolitan Transportation Commission.

4.4 Late Charges. Licensee acknowledges that late payment by Licensee to Port of Landing Fees or other sums due under this

License will cause Port increased costs not contemplated by this License, the exact amount of which will be extremely difficult to ascertain. Accordingly, a charge equivalent to one and one-half percent (1-2%) of all fees and charges, or any portion thereof due and unpaid for more than thirty (30) days will be paid by Licensee for each month that such fees and charges, or any portion thereof, remain due and unpaid, plus any attorneys' fees incurred by Port by reason of Licensee's failure to pay fees or other charges, or both, when due under this License. Such charges shall be computed from the date on which such fees or charges first became due. Acceptance of such late charges by Port shall in no event constitute a waiver of any other default by Licensee, nor prevent Port from exercising any other rights or remedies Port may have.

4.5 Additional Fees. Licensee shall pay, or cause to be paid, and discharge or cause to be discharged when the same shall become due, as additional fees, all taxes, assessments, insurance premiums, repair charges, and other amounts, liabilities and obligations of every description which Licensee assumes or agrees to pay or discharge pursuant to this License, together with every fine, penalty, interest or other charge which may be added for non-payment or late payment pursuant to the terms of this License, whether payable to Port or other persons or parties designated herein. If Licensee fails to pay or discharge any such amount, liability or obligation, Port shall have all rights, powers and remedies provided herein or by law in the case of non-payment of the obligation.

6. Taxes and Assessments.

6.1 Payment of Taxes. During the Term of this License, Licensee agrees to pay, if applicable, when due, to the proper authority any and all taxes, assessments and similar charges on the Landing Site in effect at the time this License is entered into or which become effective thereafter, including all taxes levied or assessed on the possession, use or occupancy, as distinguished from the ownership of the Landing Site. Licensee shall not permit any such taxes, charges or other assessments to become a defaulted lien on the Landing Site or the improvements thereon; provided, however, that in the event any such tax, assessment or similar charge is payable in installments, Licensee may make, or cause to be made, payment in installments; and provided, further, that Licensee may, through such proceeding as Licensee considers necessary or appropriate, contest the legal validity or the amount of any tax, assessment or similar charge, Licensee shall nevertheless pay all such charges when due. In the event of any such contest, Licensee shall protect and indemnify Port against all losses, damages, costs, or expenses,

including attorneys' fees resulting therefrom.

6.2 Possessory Interest Tax. Licensee acknowledges and understands that a possessory interest subject to property taxation may be created by this License and that Licensee may be subject to the payment of property taxes levied on Licensee's possessory interest. Licensee further acknowledges that Licensee is familiar with San Francisco Administrative Code Sections 23.6-1 and 23.6-2, which require that Port submit a report, which includes specified information relating to the creation, renewal, or sublicense of any such possessory interest, to the County Assessor within 60 days after any such transaction. Licensee agrees to provide to Port the information required by Section 23.6-2 within 30 days after any such transaction, if requested to do so by Port.

7. Compliance with Laws and Regulations. Licensee, at Licensee's cost and expense, shall comply with all laws, ordinances, judicial decisions, orders and regulations of federal, state, county and municipal governments and the departments, courts, commissions, boards and officers thereof pertaining to Licensee's use of the Landing Site in effect either at the time of execution of this License or at any time during the Term.

Licensee further agrees to be responsible for compliance with 42 USCS 12101, et seq., commonly known as the Americans with Disabilities Act ("ADA"), for any gangways or other devices used for barge-to-vessel access which Licensee may from time to time provide or use for access to the Landing Site. Licensee shall not be required to obtain Port review or prior approval of designs and specifications for new or modified gangways which are not permanently affixed to the Landing Site barge or which do not require any modifications to the barge.

If Licensee determines that in order to comply with ADA certain permanent modifications to the barge or to other portions of the Landing Site will be required, Licensee shall design gangway(s) and such modifications and submit the same to the Advisory Committee. The Advisory Committee then shall submit to Port, through the regular building permit process, design plans for the new or modified gangway(s) and specifications for the modifications to the barge or to other portions of the Landing Site, which designs and specifications take into consideration the needs of all licensees.

If Port determines, in its sole and absolute discretion, that the modifications proposed by the Advisory Committee are both necessary and feasible, Port shall cooperate with the Advisory Committee and/or Licensee to implement such

modifications.

All costs associated with any modifications to the barge or to other portions of the Landing Site, as well as all costs associated with new or modified gangways or other devices used for barge-to-vessel access to the Landing Site, shall be at Licensee's sole cost and expense.

Licensee understands and agrees that Port is entering into this License in its capacity as a landowner with a proprietary interest in the Landing Site and not as a regulatory agency of the City with certain police powers. Port's legal status as an agency of the City shall in no way limit the obligation of Licensee to obtain any required approvals from City departments, boards or commissions which have jurisdiction over the Landing Site, including Port. By entering into this License, Port is in no way modifying or limiting the obligation of Licensee to cause the Landing Site to be used in accordance with all laws, rules and regulations of the City, the State of California and the United States.

8. Regulatory Approvals. Licensee understands that Licensee's operations at the Landing Site or certain alterations, changes in use or improvements to the Landing Site may require an authorization, approval or permit (collectively, "regulatory approval") from a regulatory agency with jurisdiction over the Landing Site, including but not limited to the Bay Conservation and Development Commission ("BCDC"). Licensee shall be solely responsible for obtaining any such regulatory approval if such is necessary. Licensee shall not seek any regulatory approval without first obtaining the written approval of Port, which approval shall not be unreasonably withheld. All costs associated with applying for and obtaining any necessary regulatory approval shall be borne by Licensee. Licensee shall be solely responsible for complying with any or all conditions imposed by regulatory agencies as part of a regulatory approval. Any fines or penalties imposed as a result of the failure of Licensee to comply with the terms and conditions of any regulatory approval shall be paid and discharged by Licensee, and Port shall have no liability, monetary or otherwise, for said fines and penalties. To the fullest extent permitted by law, Licensee agrees to indemnify and hold Port harmless from any and all losses, including attorneys' fees, which the Port may incur as a result of Licensee's non-compliance with the terms and conditions of any regulatory approval; provided, however, such indemnification shall not include losses resulting from any defect or deficiency in the design, construction or installation of the Landing Site.

9. Assignment and Agents. Licensee shall not at any time assign, transfer, sell a controlling interest of, hypothecate, or

grant control of this License to any person or entity. Notwithstanding the foregoing, Licensee may enter into an agreement with an Agent to operate vessel(s) in compliance with the terms hereof provided that Licensee gives written notification to the Port of such agreement and provides a copy of such agreement to Port. Any such agreement must be subject to and consistent with the terms of this License, and including without limitation the insurance requirements set forth in section 13 hereof.

10. Maintenance and Repair; Damage by Licensee

10.1 Maintenance and Repair. Port shall maintain the Landing Site in good operating condition and repair, as Port shall determine in its reasonable judgment. Licensee shall not perform ordinary maintenance or repair of the Landing Site. Port, along with a non-Port representative of the Advisory Committee, shall inspect the barge monthly. If during the Term there are welding failures in the barge fendering system, and Licensee has exercised all due care and the best operational practices in the course of its berthing operations at the barge, Port shall repair, at Port expense, any such welding failures. Port also shall repair welding failures in the barge fendering system caused by the negligent or intentional conduct of Licensee, but the cost of such repair shall be borne by Licensee.

Licensee shall notify Port in writing if it deems that any maintenance or repairs to the Landing Site are necessary. Upon receipt of such notification, Port shall promptly investigate the matter, and if Port determines that such maintenance or repairs are necessary, Port shall perform the same when reasonably practicable for Port to do so. If Port refuses to perform the maintenance or repairs requested, or if Port fails to perform the maintenance or repairs when reasonably practicable for Port to do so, and Port received written notification from Licensee or from the Advisory Committee to perform the same, any liability which occurs as a direct result of such non-repair shall be excluded from Licensee's indemnity of Port set forth in Section 14.2 hereof.

10.2 Damage. Licensee shall be responsible for any and all damage, other than normal wear and tear, incurred during the Term hereof which arises out of or in connection with Licensee's, its agents', employees', contractors' or invitees', use of the Landing Site or approaches thereto. If Licensee damages the Landing Site, Licensee shall take immediate steps to mitigate the damage to prevent injury or further damage. Licensee shall notify Port's representative immediately of such damage but in no event more than three (3) hours after the occurrence thereof, and Licensee shall inform Port of the mitigating action it will take

or has taken. Licensee shall repair, or cause to be repaired, the damage after (i) receiving Port approval of the design, plans and specifications, if any, through the building permit process, (ii) receiving approval from Port of the contractor, (iii) obtaining all necessary permits, and (iv) complying with any other reasonable requirements of Port. Port may in its discretion repair any such damage at the sole cost and expense of Licensee, and Licensee shall pay such costs within thirty (30) days after notice thereof.

11. Suitability; Acceptance. Port acknowledges that the Landing Site was designed and constructed for the docking of ferryboats and for accepting passengers; provided, however, Port makes no representation or warranty with regard to the safety, suitability or fitness of the Landing Site for Licensee's use. Licensee represents that it has visually examined the Landing Site to determine its condition and suitability for the conduct of Licensee's business and has accepted the Landing Site in an "As-Is" condition. Port makes no warranty or representation regarding the seismological condition of the Landing Site.

11.1 Damage by Fire or Other Casualty. If the Landing Site is partially or totally destroyed or damaged by fire or other casualty, Port, in Port's sole and absolute discretion, shall have the option of (a) terminating this License by giving Licensee written notice thereof or (b) repairing such damage when reasonably practicable for Port to do so, and this License shall remain in full force and effect; provided that, if the damage to the Landing Site is not the result of the act, neglect, default, or omission of Licensee, its agents, employees, contractors, or invitees, Licensee shall be entitled to a pro rata reduction of its Landing Fee in accordance with the extent that Licensee is unable to use the Landing Site. Unless such damage is caused by Port's willful misconduct, Licensee's right to a reduction of its Landing Fee under this Section 11 shall be Licensee's sole remedy in connection with any such damage. If Port elects to repair the damage, Port will use its best efforts, but is not obligated, to find another site where Licensee may land its vessels during the period of disability and repairs. If Licensee utilizes such new site, then the Landing Fee shall not be abated.

11.2 Acts of God. Nothing contained herein shall require either Licensee or Port to repair or replace the improvements as a result of damages caused by acts of war, earthquake, tidal wave, or other acts of God, except that this provision shall not affect the obligations of Licensee to make repair to improvements for damages required to be covered by insurance maintained by Licensee under Section 13 hereof.

11.3 Eminent Domain.

(a) If all or part of the Landing Site shall be taken by any public or quasi-public authority under the power of eminent domain or conveyance in lieu thereof, this License shall terminate as to any portion of the Landing Site so taken or conveyed on the date when title or the right to possession vests in the condemnor.

(b) If (i) a part of the Landing Site shall be taken by any public or quasi-public authority under the power of eminent domain or conveyance in lieu thereof; and (ii) Licensee is reasonably able to continue landing its vessels in that portion of the Landing Site remaining, and (iii) Port, in Port's absolute discretion, elects to restore Landing Site to an architectural whole, then this License shall remain in effect as to said portion of the Landing Site remaining, with no reduction in the Landing Fees or other amounts due hereunder. If, after a partial taking, Licensee is not reasonably able to continue landing its vessels at the Landing Site or Port elects not to restore the Landing Site, this License may be terminated by either Port or Licensee by giving written notice to the other party within one hundred twenty (120) days of the date of the taking. Such notice shall specify the date of termination which shall be not less than thirty (30) nor more than sixty (60) days after the date of said notice.

(c) Port shall be entitled to any and all payment, fees, income, rent, award, or any interest therein whatsoever which may be paid or made in connection with such taking or conveyance, and Licensee shall not have a claim against Port or otherwise for the value of this License.

12. Hazardous Materials.

12.1 Requirements for Handling. Licensee, its agents, employees, contractors or invitees shall not handle on or about the Landing Site any hazardous material without the prior written consent of Port, which consent shall not be unreasonably withheld, so long as Licensee demonstrates to Port's reasonable satisfaction that such hazardous material is necessary to Licensee's business and will be handled in a manner that complies with all laws regulating any such hazardous material. As used in this Section 12 and Section 14, "handle" shall mean use, generate, process, produce, package, treat, store, emit, discharge and dispose. As used in this License, "hazardous material" or "Hazardous Material" shall mean any substance, water or material which has been determined by any state, federal, or local government authority to be capable of posing a risk of injury to health, safety and property including, but not limited to, all of those materials, wastes and substances designated as

hazardous or toxic by the United States Environmental Protection Agency, the City and County of San Francisco, the United States Department of Labor, the United States Department of Transportation, the California Department of Environmental Protection and any other governmental agency now or hereafter authorized to regulate materials and substances in the environment.

12.2 Licensee Responsibility. Licensee shall handle all hazardous materials introduced on the Landing Site by Licensee, its agents, employees, contractors or invitees in compliance with all applicable laws and regulations at its sole cost and expense. Licensee shall not be responsible for the safe handling of any hazardous material introduced on the Landing Site during the Term by the City or Port or its officers, agents or employees, or by other licensees. Licensee shall immediately report any hazardous material discovered on or about the Landing Site. Licensee shall protect its employees and the general public in accordance with all applicable laws on hazardous materials. Port may from time to time request and Licensee shall be obligated to provide, adequate information for Port to determine that hazardous materials are being handled in a manner that complies with all applicable laws.

12.3 Requirement to Remove. Prior to termination of the License, Licensee, at its sole cost and expense, shall remove any and all hazardous materials, including any discharge as described in Section 3.5 (h), introduced on or about the Landing Site by Licensee, its agents, employees, contractors, invitees and licensees. Further, Licensee, at its sole cost and expense, shall remove any hazardous material introduced on the Landing Site by Licensee, its agents, employees, contractors or invitees which is required to be removed by any governmental agency, including Port; provided however, that Licensee shall not be obligated to remove any hazardous material introduced onto the Landing Site during the Term by the City or Port or any of their officers, agents or employees, or by other licensees. Prior to the termination of this License, Port and Licensee shall conduct a joint inspection of the Landing Site for the purpose of identifying hazardous materials existing on the Landing Site at the time of termination and required to be removed by Licensee.

13. Insurance.

13.1 Required Licensee Insurance. During the Term of this License, Licensee shall maintain, or, if there is an Agent pursuant to Section 9, Licensee shall cause said Agent to maintain, in full force and effect at its own cost and expense, the following insurance:

(a) **Comprehensive General Liability Insurance** with limits not less than Five Million Dollars ($5,000,000.00) each occurrence Combined Single Limit Bodily Injury and Property Damage, including coverages for contractual liability, independent contractors, broadform property damage, personal injury, products and completed operations, and fire damage and legal liability with limits not less than Two Hundred Fifty Thousand Dollars ($250,000.00);

(b) **Comprehensive or Business Automobile Liability Insurance** with limits not less than One Million Dollars ($1,000,000.00) each occurrence Combined Single Limit Bodily Injury and Property Damage, including owned, non-owned and hired auto coverages which will apply only if Licensee, its agents, employees and licensees use motor vehicles in connection with its use of the Landing Site;

(c) **Worker's Compensation Insurance** with Employers Liability limits not less than One Million Dollars ($1,000,000.00) for each accident including U.S. Longshore and Harborworker's Act and Jones Act coverages on employees eligible for each. In the event Licensee is self-insured, it shall furnish Certificate of Permission to Self-Insure signed by Department of Industrial Relations, Administration of Self-Insurance, Sacramento, California;

(d) **Protection and Indemnity (Watercraft Liability) Insurance** for marine operations with a limit of not less than Five Million Dollars ($5,000,000.00) each occurrence;

(e) To the extent Licensee is self insured, such self-insurance program shall include coverages not less broad than the coverages stated above and said coverage shall provide protection for Port, City and their authorized representatives, not less broad than the coverages stated above.

(f) Should any of the required insurance be provided under a claims-made form, Licensee shall maintain or cause to be maintained such coverage continuously throughout the Term of this License and, without lapse, for a period three years beyond the License expiration, to the effect that, should occurrences during the Term give rise to claims made after expiration of the License, such claims shall be covered by such claims-made policies.

(g) Should any of the required insurance be provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs be

included in such annual aggregate limit, such annual aggregate limit shall be double the occurrence limits specified above.

(h) All liability policies required by this License shall name as additional insureds the City and County of San Francisco and the San Francisco Port Commission, their officers, agents and employees, and shall be primary to any other insurance available to the additional insureds. All policies shall provide thirty (30) days prior written notice of cancellation, non-renewal or reduction in coverage in person or by mail to Port's address as set forth in Section 20 of this License. Licensee shall furnish or cause to be furnished certificates of insurance in a form acceptable to Port evidencing all coverages required above prior to the Commencement Date with complete copies of policies upon Port's request.

(i) All liability policies shall be issued by a company or companies reasonably acceptable to Port.

(j) Approval of the insurance by Port shall not relieve or decrease the liability of Licensee, or its agents, hereunder. The coverages described in this Section 13.1 shall not be construed to be a substitute in any respect for Licensee's obligations under this License. If this License is extended pursuant to Section 17, Licensee and Port shall review the amount of insurance carried pursuant to this Section 13.1 when the License is extended. If it is found to be the general commercial practice in the San Francisco Bay Area to carry insurance in amounts substantially greater or lesser than the amounts carried by Licensee with respect to risks comparable to those associated with the Landing Site, the amounts carried by Licensee may at the discretion of Port be increased or decreased to conform to such general commercial practice.

13.2 Dock Liability Insurance. The Advisory Committee may at its option secure dock liability insurance, naming all licensees under Landing Rights Licensees for Common Carrier Ferry Service Landing Slot(s) at Pier 2 and their Agents as named insured. Said insurance shall comply with the provisions of Section 13.1(g) hereof, and the form of said insurance coverage and the company or companies issuing this insurance shall be subject to the approval of the Port, which approval shall not be unreasonably withheld. Provided that the Port grants this approval, the Port shall pay the premiums for said insurance, and the Landing Fees shall be adjusted to compensate the Port for the cost of said premiums. If permitted by the insurance policies, the Port may pay the premiums in monthly, quarterly or semi annual installments. Approval of said insurance and payment of premiums by the Port shall not relieve or decrease the liability of Licensee, or its agents, hereunder. The insurance coverages

described in this Section 13.2 shall not be construed to be a substitute in any respect for Licensee=s obligations under this Licensee, including, but not limited to Sections 13.1, 14 and 16 hereof.

14. Indemnity and Exculpation.

14.1 Exculpation. Licensee, as a material part of the consideration to be rendered to Port, hereby waives any and all claims against Port, City and its officers, agents and employees, and agrees to hold Port and City and its officers, agents and employees harmless from any claims for damages to goods, wares, goodwill, merchandise, equipment or business opportunities and by persons in, upon or about said Landing Site and vessels of Licensee for any cause arising at any time out of Licensee's activities at the Landing Site, excluding all claims arising from the negligence or willful misconduct of Port or City or their officers, agents or employees.

14.2 Indemnity. Licensee shall hold Port, City and their officers, agents and employees harmless from, and, if requested, shall defend them against, any and all claims, direct or vicarious liability, damage or loss arising out of: (a) any injury to or death of any person or damage to or destruction of any property occurring in, on or about the Landing Site or vessels or ferryboats of Licensee, or any part thereof, from any cause unless such cause has no connection, association or relationship whatsoever with Licensee's or any other licensees' operations, business, activities or personal property on or about the Landing Site, or (b) any default by Licensee in the observance or performance of any of the terms, covenants or conditions of this License, or (c) the use, occupancy or condition of the Licensee's vessels, the Landing Site or Licensee's activities therein. The foregoing indemnity obligation of Licensee shall exclude only claims, liability, damage or loss resulting solely and exclusively from the negligence or willful misconduct of Port, City or their authorized representatives. The foregoing indemnity obligation of Licensee shall include reasonable attorneys' fees, investigation costs and all other reasonable costs and expenses incurred by Port or City from the first notice that any claim or demand is or may be made. The provisions of this Section 14 shall survive the termination of this License with respect to any damage, destruction, injury or death occurring prior to such termination.

In addition to Licensee=s obligation to indemnify Port and City, Licensee specifically acknowledges and agrees that is has an immediate and independent obligation to defend Port and City

from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent. Licensee=s obligation to defend shall arise at the time such claim is tendered to Licensee by Port and/or City and shall continue at all times thereafter.

The foregoing indemnity obligation of Licensee shall include without limitation, indemnification from all loss and liability, including attorney=s fees, court costs and all other litigation expenses. This indemnification by Licensee shall begin from the first notice that any claim or demand is or may be made. The provisions of this section shall survive the termination of this License with respect to any damage, destruction, injury or death occurring prior to such termination

14.3 Hazardous Materials Indemnity. Licensee shall indemnify, defend and hold Port and City harmless from any and all claims, judgments, damages, penalties, fines, cost, liabilities, or losses which arise during or after the Term as a result of the handling of Hazardous Materials, as defined in Section 12, on the Landing Site or on the vessels of Licensee, including any discharge as described in Section 3.5(h), by Licensee, its, agents, employees, invitees, and licensees including without limitation, costs of investigating and remediating the Landing Site, the surrounding area or the San Francisco Bay, diminution in value of the Landing Site, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Landing Site, damages arising from any adverse impact on marketing of any such space, and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees. This indemnification of Port and City by Licensee includes, but is not limited to, costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal or restoration work requested by Port or required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil, water or ground water on or under the Landing Site. Without limiting the foregoing, if the presence of any Hazardous Material on or about the Landing Site caused or permitted by Licensee results in any contamination of the Landing Site or of the San Francisco Bay, Licensee, at its sole expense, shall promptly take all action that is necessary to return the Landing Site and the Bay to the condition existing prior to the introduction of such Hazardous Material onto the Landing Site or Bay, provided that Port's written approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions could not potentially have any material adverse effect upon the Landing Site or the San Francisco Bay. Licensee's obligations hereunder shall survive the termination of this License.

14.4 Cross Indemnification. Licensee agrees that it will

indemnify and defend any other licensee using the Landing Site for any and all claims, damage or loss to the extent that such claims, damage or loss are the result of the negligence of Licensee. The agreement to indemnify and defend extends only to those licensees who have agreed to defend and indemnify other licensees, including Licensee, on the same terms. Port agrees to insert this clause into other license agreements for the use of the Landing Site for commuter ferry passenger vessel service and to require such other licensees to agree to the foregoing cross indemnification.

15. Default.

15.1 Licensee's Default. The occurrence of any of the following shall constitute a default by Licensee:

(a) Failure to submit Landing Fees, Percentage Fees, Casual Landing Fees or Layover Fees within ten (10) days after the date upon which such fees are due.

(b) Failure to report to Port any damage to the Landing Site or accident to passengers, pursuant to Section 10 and subsection 3.4(h), respectively.

(c) Failure to perform any other provision of this License if the failure to perform is not cured within 30 days after notice has been given to Licensee. If the default cannot reasonably be cured within 30 days, Licensee shall not be in default of this License if Licensee commences to cure the default within the 30-day period and diligently and in good faith continues to cure the default.

(d) Either (i) the failure of Licensee to pay its debts as they become due, or the written admission of Licensee of its inability to pay its debts, or a general assignment by Licensee for the benefit of creditors; or (ii) the filing by or against Licensee of any action seeking reorganization, arrangement, liquidation, or other relief under any law relating to bankruptcy, insolvency, or reorganization or seeking appointment of a trustee, receiver, or liquidator of Licensee or of any substantial part of Licensee's assets, except as to any involuntary action brought against Licensee which has been dismissed within 60 days after date of service; or (iii) the attachment, execution or other judicial seizure of substantially all of Licensee's interest in this License, unless such seizure is discharged within ten days.

Notices given under this Section shall specify the alleged default and shall demand that Licensee perform the provisions of this License or submit the monthly fee or other fees that are in arrears, as the case may be, within the applicable cure period if any, or quit use of the Landing Site. No such notice shall be

deemed a forfeiture or a termination of this License unless Port so elects in the notice.

15.2 Port's Remedies. In the event of a default by Licensee Port may terminate Licensee's landing rights at the Landing Site at any time upon twenty (20) days' written notice. No act by Port other than giving written notice to Licensee shall terminate this License. In addition to termination of this License, Port shall have all rights and remedies pursuant to applicable law if Licensee commits a default of this License.

16. Litigation Expenses; Attorneys' Fees.

16.1 Litigation Expenses. If either party hereto brings an action or proceeding (including any cross-complaint, counterclaim, or third-party claim) against the other party by reason of a default, or otherwise arising out of this License, the prevailing party in such action or proceeding shall be entitled to its costs and expenses of suit, including but not limited to reasonable attorneys' fees, which shall be payable whether or not such action is prosecuted to judgement. "Prevailing party" within the meaning of this Section 16 shall include without limitation, a party who dismisses an action for recovery hereunder in exchange for payment of the sums allegedly due, performance of covenants allegedly breached, or consideration substantially equal to the relief sought in the action. Port shall be entitled to recover its actual costs, attorney's fees and expenses of suit.

16.2 Appeals. Attorneys' fees under this Section 16 shall include attorneys' fees on any appeal, and, in addition, a party entitled to attorneys' fees shall be entitled to all other reasonable costs and expenses incurred in connection with such action.

17. Extension Period. The Term of this License may be extended on an annual basis upon the written agreement of the Port and Licensee pursuant to all of the terms and conditions hereof; provided, however, that the Landing Fees shall be adjusted pursuant to Section 4. Such extension shall be at the discretion of both Port and Licensee.

18. Mineral Reservation. The State of California, pursuant to Section 2 of Chapter 1333 of the Statutes of 1968, as amended, has reserved all subsurface mineral deposits, including oil and gas deposits, on or underlying the Landing Site. In accordance with the provisions of said statute, Port and Licensee shall and hereby do grant to the State of California the right to explore, drill for and extract said subsurface minerals, including oil and gas deposits, from an area located by the California Grid System, Zone 3, beginning at a point where X equal 1,453,000 and Y equals 477,700, extending 500 feet south, thence 500 feet east, thence

500 feet north, and thence 500 feet west, ending at said point of beginning.

19. City Requirments.

19.1 Non-Discrimination in City contracts and Benefits Ordinance.

(a) Covenant Not to Discriminate. In the performance of this License, Licensee covenants and agrees not to discriminate on the basis of the fact or perception of a person=s race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with Licensee, in any of Licensee=s operations within the United States or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Licensee.

(b) SubLicenses and Other Subcontracts. Licensee shall include in all SubLicenses and other subcontracts relating to the Premises a non-discrimination clause applicable to such SubLicensee or other subcontractor in substantially the form of subsection (a) above. In addition, Licensee shall incorporate by reference in all SubLicenses and other subcontracts the provisions of Sections 12B.2 (a), 12B.2 (c)-(k) and 12C.3 of the San Francisco Administrative Code and shall require all SubLicensees and other subcontractors to comply with such provisions. Licensee=s failure to comply with the obligations in this subsection shall constitute a material breach of this License.

(c) Non-Discrimination in Benefits. Licensee does not, as of the date of this License, and will not during the Term, in any of its operations in United States, discriminate in the provision of benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12.2(b) of the San Francisco Administrative Code.

(d) Condition to License. As a condition to the effectiveness of this License, Licensee shall execute and deliver to Port the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form approved by the San Francisco Human Rights Commission.

(e) Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the License of City property are incorporated in this Section by reference and made a part of this License as though fully set forth herein. Licensee shall comply fully with and be bound by all of the provisions that apply to this License under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Licensee understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of $50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this License may be assessed against Licensee and/or deducted from any payments due Licensee.

19.2 MacBride Principles-Northern Ireland. The City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

19.3 Tropical Hardwood Ban. The City and County of San Francisco urges Licensee not to import, purchase, obtain, or use for any purpose, any tropical hardwood or tropical hardwood product, virgin redwood or virgin redwood product.

19.4 Burma (Myanmar) Business Prohibition

Licensee represents to the Port that Licensee is not the government of Burma (Mayanmar), that Licensee is not a person or business entity organized under the laws of Burma (Myanmat),and that Licensee is not a prohibited person or entity, defined in Section 12J.2.G of the San Francisco Administrative Code as any person or entity designated by the Investor Responsibility Research Center as having investments or employees in Burma, or any person or entity that licenses any person or entity organized under the laws of Burma (Myanmar) to produce and market its products. Port reserves the right to terminate this lease for default if licensee violates the terms of this section 19.4.

Chapter 12J of the San Francisco Administrative Code is hereby incorporated by reference as though fully set forth herein. The Failure of Licensee to comply with any of its requirements shall be deemed a material breach of this license. In the event that licensee fails to comply in good faith with any of the provisions of Chapter 12J of the San Francisco Administrative Code, licensee shall be liable for liquidated damages for each violation in the amount of One Thousand Dollars ($1,000).

19.5 Pesticide Prohibition

Tenant shall comply with the provisions of Section 39.9 of Chapter 39 of the San Francisco Administrative Code (the "Pesticide Ordinance") which (i) prohibit the use of certain pesticides on City property, (ii) require the posting of certain notices and the maintenance of certain records regarding pesticide usage and (iii) require Tenant to submit to Port an integrated pest management (IPM) plan that (a) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Tenant may need to apply to the Premises during the term of this Lease, (b) describes the steps Tenant will take to meet the City's IPM Policy described in section 39.1 of the Pesticide Ordinance and (c) identifies, by name, title, address and telephone number, an individual to act as the Tenant's primary IPM contact person with the City. In addition, Tenant shall comply with the requirements of Sections 39.4(a) and 39.4(b) of the Pesticide Ordinance as of January 1, 1999 and January 1, 2000, respectively, if this Lease is in effect on these dates.
Through Port, Tenant may seek a determination from the City's Commission on the Environment that Tenant is exempt from complying with certain portions of the Pesticide Ordinance with respect to this Lease, as provided in Section 39.8 of the Pesticide Ordinance. Port shall reasonably cooperate with Tenant if Tenant seeks in good faith an exemption under the Pesticide Ordinance, provided that Port shall have no obligation to make expenditures or incur expenses other than administrative expenses.

19.6 First Source Hiring

The City has adopted a First Source Hiring Ordinance (San Francisco Administrative Code §83.1 et. seq.) which establishes specific requirements, procedures and monitoring for first source hiring of qualified economically disadvantaged individuals for entry-level positions. Pursuant to §83.7(b) of the First Source Hiring Ordinance, the Port Commission has adopted a First Source Hiring Implementation and Monitoring Plan ("Port Plan") subject to approval by the First Source Hiring Administration. Tenant acknowledges receiving and reviewing the First Source Hiring Ordinance. Under Section 83.9(d) of the first Source Hiring Ordinance, compliance by an employer with the Port Plan is deemed to be compliance with the provisions of the First Source Hiring Ordinance.

Based on the foregoing Tenant agrees to comply with the Port Plan through compliance with all of the following measures:

(a) Tenant shall notify the City and County of San Francisco's Workforce Development System, Department of Human Services of all projected Entry Level Positions and the approximate date such

positions will be available, by using the ***Job Survey Form*** provided by the Port of San Francisco. The Port will also provide the Tenant with a detailed instruction sheet summarizing the procedure for the commencement of the lease. Tenant shall return the ***Job Survey Form*** to the Port within 30 days after execution of the lease by the Port and Tenant.

For purposes of this Agreement the terms "Entry Level Position", "San Francisco Workforce Development System", "Qualified Economically Disadvantaged Individual", and "First Source Hiring Agreement" shall have the meaning provided in Section 83.4 of the San Francisco Administrative Code.

Tenant shall notify the San Francisco Workforce Development System of all vacancies for existing or new Entry Level Positions on the premise, during the lease term, and shall offer the San Francisco Workforce Development System the first opportunity to provide Qualified Economically Disadvantaged Individuals for employment in these positions.

(b) Tenant shall not publicize or otherwise post such vacancies until the San Francisco Workforce Development System refers Qualified Economically disadvantaged Individuals for employment in these positions or notifies Tenant that no Qualified Economically Disadvantaged Individuals are available for the particular vacancies. The San Francisco Workforce Development System shall respond to Tenant within ten (10) business days. After 10 business days, if the San Francisco Workforce Development System does not refer applicants, Tenant can advertise and fill Entry Level Positions outside of the City referral system.

(c) Tenant shall interview qualified applicants and use good faith in hiring applicants. Tenant shall maintain good records of recruitment and hiring process, and shall permit Port or City to audit such records upon request.

Pursuant to Section 83.10 of the Ordinance, if upon administrative review, it is determined that Entry Level positions were not made available to the San Francisco Workforce Development system for referral of Qualified Economically Disadvantaged Individuals, and the Employer does not remedy the violations, the Employer shall be assessed a penalty in the amount of $2,070 for every new hire for an Entry Level Position improperly withheld from the First Source Hiring process.

20. Notices.

20.1 Manner of Delivery. Any notice given under this License shall be in writing and given by delivering the notice in person, by commercial courier or by sending it by registered or certified mail, or Express Mail, return receipt requested, with postage prepaid, to the mailing address listed below or any other address notice of which is given. For the convenience of the

parties, copies of notices may also be given by telefacsimile, to the telephone number listed below or such other numbers as may be provided from time to time.

Port: Maritime Division
Port of San Francisco
Room 3100, Ferry Building
San Francisco, CA 94111
Telephone: (415) 274-0522
Telefacsimile: (415) 274-0528

Licensee: Golden Gate Bridge, Highway
and Transportation District
Ferry Transit Division
101 East Sir Francis Drake Blvd.
Larkspur, CA 94939-1899
Telephone: (415) 925-5573
Telefacsimile: (415) 925-5511

Any mailing address or telefacsimile number may be changed at any time by giving written notice of such change in the manner provided above at least ten (10) days prior to the effective date of the change. All notices under this License shall be deemed given, received, made or communicated on the date personal receipt actually occurs or, if mailed, on the delivery date or attempted delivery date shown on the return receipt. A person may not give official or binding notice by telefacsimile. The effective time of a notice shall not be affected by the receipt, prior to receipt of the original, of a telefacsimile copy of the notice.

20.2 Content. Every notice (other than the giving or withholding of consent, approval or satisfaction under this License, but including requests therefor) shall comply with the following requirements. Each such notice shall state: (i) the section of this License pursuant to which the notice is given and (ii) the period of time within which the recipient of the notice must respond or if no response is required, a statement to that effect. Each request for consent or approval shall contain reasonably sufficient data or documentation to enable the recipient to make an informed decision.

20.3 Conclusive Presumptions. If any person, including any party to this License who receives a notice which pertains to an unmatured event of default or to an intention to terminate does not notify the person who sent the notice of any alleged deficiencies in the form, content, or delivery of the notice within twenty (20) days after receipt of the notice, the notice shall be conclusively presumed to comply with all provisions of this License.

21. Time is of the Essence. Time is of the essence of each provision of this License.

22. Miscellaneous Provisions.

22.1 California Law. This License shall be construed and interpreted in accordance with the laws of the State of California.

22.2 Entire Agreement. This License contains all the representations and the entire agreement between the parties with respect to the subject matter of this License. Any prior correspondence, memoranda, agreements, warranties or representations relating to such subject matter are superseded in total by this License. No prior drafts of this License or changes from those drafts to the executed version of the License shall be introduced as evidence in any litigation or other dispute resolution proceeding by any party or other person and no court or other body should consider those drafts in interpreting this License.

22.3 Amendments. No amendment of this License or any part thereof shall be valid unless it is in writing and signed by both of the parties hereto.

22.4 Severability. Except as is otherwise specifically provided for in this License, invalidation of any provision of this License, or of its application to any person, by judgment or court order, shall not affect any other provision of this License or its application to any other person or circumstance, and the remaining portions of this License shall continue in full force and effect, unless enforcement of this License as invalidated would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this License.

22.5 Waiver. No delay or omission in the exercise of any right or remedy of Port on any default by Licensee shall impair such a right or remedy or be construed as a waiver. The receipt and acceptance by Port of delinquent Landing Fees or other Fees shall not constitute a waiver of any other default; it shall constitute only a waiver of timely payment for the particular Landing Fees or other Fee payment involved.

Port's consent to or approval of any act by Licensee requiring Port's consent or approval shall not be deemed to waive or render unnecessary Port's consent to or approval of any subsequent act by Licensee. Any waiver by Port of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this License.

22.6 No Party Drafter; Captions. The provisions of this License shall be construed as a whole according to their common

meaning and not strictly for or against any party in order to achieve the objectives and purposes of the parties. Any caption preceding the text of any section, section or subsection or in the table of contents is included only for convenience of reference and shall be disregarded in the construction and interpretation of this License. Wherever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neuter genders, or vice versa.

22.7 Successors. The terms, covenants, agreements and conditions set forth in this License shall, subject to the provisions of Section 9 of this License, apply to and bind the heirs, successors, executors, administrators and assigns of the parties hereto, and the parties shall be jointly and severally liable hereunder.

22.8 Counterparts. For convenience, the signatures of the parties to this License may be executed and acknowledged on separate pages which, when attached to this License, shall constitute this as one complete License. This License may be executed in any number of counterparts each of which shall be deemed to be the original and all of which shall constitute one and the same License.

23. Representations and Warranties. If Licensee is a corporation, Licensee and its signatory(ies) below hereby represent, warrant and covenant to Port the following:

23.1 Incorporation; Status; Qualification. (a) Licensee is a duly incorporated, valid and existing corporation; (b) Licensee is in good standing under the laws of the State of California; and (c) Licensee is qualified to do business in California.

23.2 Authority of Corporation. Licensee has full corporate power and authority to enter into this License and to consummate the transactions contemplated by it. This License has been duly authorized by all necessary action on the part of Licensee and no other corporate action on the part of Licensee is necessary to authorize the execution and delivery of this License.

23.3 Authority of Signatory. Each person executing this License on behalf of Licensee represents, warrants and covenants that such person is duly authorized to execute and deliver this License on behalf of Licensee in accordance with its Bylaws and that this License is binding upon Licensee in accordance with its terms.

IN WITNESS WHEREOF, PORT and Licensee have executed this License at San Francisco, California, on the date first mentioned above.

The undersigned signatory for Licensee declares that (s)he has read and understood section 19.2, the City's statement urging companies doing business in Northern Ireland to move towards resolving employment inequities, encouraging compliance with the MacBride Principles, and urging San Francisco companies to do business with corporations that abide by the MacBride Principles.

LICENSEE:

_____

By_____

PORT:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, operating
By and through the SAN FRANCISCO
PORT COMMISSION

By_____
Peter Dailey
Maritime Director

APPROVED AS TO FORM:
LOUISE H. RENNE, City Attorney

BY: _____
Deputy City Attorney

Tenmar/ferrylic.doc

EXHIBIT B: THE LANDING SLOT SCHEDULE

(1 OF 7 PAGES)

March

Sun	*Mon*	*Tue*	*Wed*	*Thu*	*Fri*	*Sat*
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27 Temp. Landing Dry Runs	28	29	30	31 EXH 19:35 OAK-AL 17:00 TIB-SAU18:50 LARKS 19:20	

2000

(2)

April

Sun	*Mon*	*Tue*	*Wed*	*Thu*	*Fri*	*Sat*
						1 EXH 19:35 TIB-SAU 18:50 LARKS 19:00 OAK-AL 19:15
2	**3**	**4**	**5**	**6**	**7**	**8**
9	**10**	**11** 13:05 RICH 12:30 OAK-AL TBD TIB-SAU TBD No LARKS	**12** 19:35 OAK-AL 19:00 LARKS 19:20 TIB-SAU Departure only	**13** 19:35 OAK-AL 19:00 LARKS 19:20 TIB-SAU Departure only	**14** 19:35 OAK-AL19:00 LARKS 19:20 TIB-SAU Departure only	**15** 13:05 RICH 12:25 LARKS 12:35 TIB-SAU 12:45
16 17:05 LARKS 16:35 TIB-SAU TBD	**17**	**18**	**19**	**20**	**21**	**22**
23	**24**	**25**	**26**	**27**	**28** 19:35 OAK-AL19:00 LARKS 19:20 TIB-SAU Departure only	**29** 13:05 RICH 12:25 LARKS 12:35 TIB-SAU 12:45
30 13:05 RICH 12:25 LARKS 12:35 TIB-SAU 12:45						

2000

(3)

May

Sun	*Mon*	*Tue*	*Wed*	*Thu*	*Fri*	*Sat*
	1 19:15 OAK-AL 19:00 LARKS 19:20 TIB-SAU Departure only	**2** 19:15 OAK-AL19:00 LARKS 19:20 TIB-SAU Departure only	**3** 16:05 No Direct Service	**4** 12:35 No Direct Service	**5** 19:35 OAK-AL19:00 LARKS19:20 TIB-SAU Departure only	**6** 13:05 RICH 12:25 LARKS 12:35 TIB-SAU 12:45
7 13:05 RICH 12:25 LARKS 12:35 TIB-SAU 12:45	**8** 19:15 OAK-AL19.00 LARKS 19:20 TIB-SAU Departure only	**9** 19:15 OAK-AL19.00 LARKS19:20 TIB-SAU Departure only	**10** 12:35 No Direct Service	**11**	**12**	**13**
14	**15**	**16**	**17**	**18**	**19**	**20**
21	**22**	**23** 19:15 OAK-AL19:00 LARKS 19:20 TIB-SAU Departure only	**24** 19:15 OAK-AL19:00 LARKS 19:20 TIB-SAU Departure only	**25** 12:35 No Direct Service	**26** 19:35 OAK-AL19:00 LARKS 19:20 TIB-SAU Departure only	**27** 13:05 RICH 12:25 LARKS 12:35 TIB-SAU 12:45
28 13:05 RICH 12:25 LARKS12:35 TIB-SAU 12:45	[redacted] 13:05 LARKS 12:35 TIB-SAU 12:45	**30** 19:15 OAK-AL19:00 LARKS 19:20 TIB-SAU Departure only	**31** 19:15 OAK-AL19:00 LARKS 19:20 TIB-SAU Departure only			

2000

June

Sun	*Mon*	*Tue*	*Wed*	*Thu*	*Fri*	*Sat*
				1	**2**	**3**
4	**5**	**6**	**7**	**8**	**9** 19:35 OAK-AL19:00 LARKS19:20 TIB-SAU Departure only	**10** 13:05 RICH 12:25 LARKS 12:35 TIB-SAU 12:45
11 13:05 RICH 12:25 LARKS 12:35 TIB-SAU 12:45	**12** 19:15 OAK-AL19:00 LARKS 19:20 TIB-SAU Departure only	**13** 19:15 OAK-AL19:00 LARKS 19:25 TIB-SAU Departure only	**14** 12:35 No Direct Service	**15**	**16** 19:35 OAK-AL19:00 LARKS 19:20 TIB-SAU Departure only	**17** 13:05 RICH 12:25 LARKS 12:35 TIB-SAU 12:45
18 13:05 RICH 12:25 LARKS 12:35 TIB-SAU 12:45	**19**	**20**	**21**	**22**	**23**	**24**
25	**26**	**27**	**28**	**29**	**30** 19:35 OAK-AL19:00 LARKS 19:20 TIB-SAU Departure only	

2000

(5)

July

Sun	*Mon*	*Tue*	*Wed*	*Thu*	*Fri*	*Sat*
						1 13:05 RICH 12:25 LARKS 12:35 TIB-SAU 12:45
2 13:05 ~~RICH 12:25~~ LARKS 12:35 TIB-SAU 12:45	**3**	[redacted] 13:05 ~~RICH 12:25~~ LARKS 12:35 TIB-SAU 12:45	**5** 13:05 No Direct Service	**6** 12:35 No Direct Service	**7**	**8**
9	**10**	**11**	**12**	**13** 19:35 ~~OAK-AL 19:00~~ LARKS 19:20 TIB-SAU Departure Only	**14** 19:35 ~~OAK-AL 19:00~~ LARKS 19:20 TIB-SAU Departure Only	**15** 13:05 ~~RICH 12:25~~ LARKS 12:35 TIB-SAU 12:45
16 13:05 RICH 12:25 LARKS 12:35 TIB-SAU 12:45	**17** 19:15 OAK-AL 19:00 LARKS 19:20 TIB-SAU Departure Only	**18** 19:15 OAK-AL 19:00 LARKS 19:20 TIB-SAU Departure Only	**19** 19:15 OAK-AL 19:00 LARKS 19:20 TIB-SAU Departure Onl;y	**20** 16:05 No Direct Service	**21**	**22**
23	**24**	**25**	**26**	**27**	**28**	**29**

2000

August

Sun	*Mon*	*Tue*	*Wed*	*Thu*	*Fri*	*Sat*
		1	**2**	**3** 19:15 OAK-AL 19:00 LARKS 19:20 TIB-SAU Departure Only	**4** 19:15 OAK-AL 19:00 LARKS 19:20 TIB-SAU Departure Only	**5** 13:05 RICH 12:25 LARKS 12:35 TIB-SAU 12:45
6 13:05 RICH 12.25 LARKS 12:35 TIB-SAU 12:45	**7** 19:15 OAK-AL 19:00 LARKS 19:20 TIB-SAU Departure Only	**8** 19:15 OAK-AL 19:00 LARKS 19:20 TIB-SAU Departure Only	**9** 12:35 No Direct Service	**10**	**11**	**12**
13	**14**	**15**	**16**	**17**	**18** 19:35 OAK-AL 19:00 LARKS 19:20 TIB-SAU Departure Only	**19** 13:05 RICH 12:25 LARKS 12:35 TIB-SAU 12:45
20 13:05 RICH 12:25 LARKS 12:35 TIB-SAU 12:45	**21** 19:15 OAK-AL 19:00 LARKS 19:20 TIB-SAU Departure Only	**22** 19:15 OAK-AL 19:00 LARKS 19:20 TIB-SAU Departure Only	**23** 12:35 No Direct Service	**24**	**25**	**26**
27	**28**	**29**	**30**	**31**		

2000

September

Sun	*Mon*	*Tue*	*Wed*	*Thu*	*Fri*	*Sat*
					1 19:35 OAK-AL 19:00 LARKS 19:20 TIB-SAU Departure Only	**2** 13:05 RICH 12:25 LARKS 12:35 TIB-SAU 12:45
3 13:05 RICH 12:25 LARKS 12:35 TIB-SAU 12:45	**4** 13:05 RICH 12:25 LARKS 12:35 TIB-SAU 12:45	**5** 19:15 OAK-AL 19:00 LARKS 19:20 TIB-SAU Departure Only	**6** 19:15 OAK-AL 19:00 LARKS 19:20 TIB-SAU Departure Only	**7** 19:15 OAK-AL 19:00 LARKS 19:20 TIB-SAU Departure Only	**8** 19:35 OAK-AL 19:00 LARKS 19:20 TIB-SAU Departure Only	**9** 13:05 RICH 12:25 LARKS 12:35 TIB-SAU 12:45
10 13:05 RICH 12:25 LARKS 12:35 TIB-SAU 12:45	**11**	**12**	**13**	**14**	**15**	**16**
17	**18** 19:15 OAK-AL 19:00 LARKS 19:20 TIB-SAU Departure Only	**19** 19:15 OAK-AL 19:00 LARKS 19:20 TIB-SAU Departure Only	**20** 19:15 OAK-AL 19:00 LARKS 19:20 TIB-SAU Departure Only	**21** 19:15 OAK-AL 19:00 LARKS 19:20 TIB-SAU Departure Only	**22** 19:35 OAK-AL 19:00 LARKS 19:20 TIB-SAU Departure Only	**23** 13:05 RICH 12:25 LARKS 12:35 TIB-SAU 12:45
24 13:05 RICH 12:25 LARKS 12:35 TIB-SAU 12:45	**25**	**26**	**27**	**28**	**29**	**30**

2000

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Fax 415 274 0528
www.sfport.com

MEMORANDUM

March 23, 2000

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Brian McWilliams, Vice President
Hon. Denise McCarthy
Hon. Michael Hardeman
Hon. Pius Lee

FROM: Douglas F. Wong
Executive Director

SUBJECT: Approval of Changes in Parking Rates for the Triangle Parking Lot, bounded by Jefferson Street, Taylor Street and The Embarcadero at Fisherman's Wharf

DIRECTOR'S RECOMMENDATION: APPROVE CHANGES IN PARKING RATES

Background

On November 22, 1994, the Port entered into Management Agreement No. L-12072 for the Triangle Parking Lot at Fisherman's Wharf with the Fisherman's Wharf Restaurant Association, Inc. ("Manager"). This Management Agreement replaced License Agreement No. 10610, dated May 25, 1982, with the Manager for the Triangle Parking Lot. The site of the Triangle Parking Lot is shown on the attached Exhibit A. Current members of the Fisherman's Wharf Restaurant Association include: Catagnola's, Tarantino's, Guardino's, The Crab House, Sabella LaTorre, Nick's Lighthouse, Alioto Fish Company, and Fisherman's Grotto.

The Management Agreement, which has a month-to-month term, provides that the Manger is responsible to manage and supervise the day-to-day operations of the Triangle Parking Lot. The Port at all times continues to exercise control over the Triangle Parking Lot and its parking operations. The Manager is required to contract with subcontractors for the operation of the Triangle Parking Lot, and the current parking operator -- City Parking Company ("Operator") -- is an MBE contractor which employs union labor. The Manager is paid a fee of $1.00 per month, and the Operator is paid a fee of $3,000.00 per month. Net receipts from the Triangle Parking Lot, after payment of parking taxes and operating expenses, are paid monthly by the Operator directly to the Port.

THIS PRINT COVERS CALENDAR ITEM NO. 6A

The Management Agreement also established the parking rates for the Triangle Parking Lot, and provides that these parking rates are subject to revision by resolution of the Port Commission. The parking rates established in the Management Agreement are $1.00 per ½ hour, with a maximum daily charge of $15.00. It also provides for two hours free parking with validation from Port tenants who are members of the Fisherman's Wharf Restaurant Association.

Recommendation

Based upon a survey of comparable parking facilities in the Fisherman's Wharf area, it has been determined by Port staff that the parking rates for the Triangle Parking Lot should be adjusted. Port staff recommends that the parking rates for this lot be changed as indicated below:

Hourly Rates:	$2.00 per ½ hour, with a maximum daily charge of $28.00.
Validated Parking:	Three hours free parking with validation from a full service restaurants which is a member of the Fisherman's Wharf Restaurant Association, and one hour free parking with validation from a crab stand which is a member of the Fisherman's Wharf Restaurant Association.

Prepared by Theresa Picon,
Director, Real Estate

PORT COMMISSION

CITY & COUNTY OF SAN FRANCISCO

RESOLUTION NO. 00-27

WHEREAS, Charter Section B3.581 empowers the Port Commission with the authority and duty to use, conduct, operate, maintain, manage, regulate and control the lands within Port jurisdiction; and

WHEREAS, Management Agreement No. L-12072 for the Triangle Parking Lot ("Management Agreement") provides in Section 5.1 that the parking rates may be revised by Port Commission resolution; now, therefore be it

RESOLVED, that the Port Commission hereby amends the Triangle Parking Lot parking rates provided in the Management Agreement as indicated below:

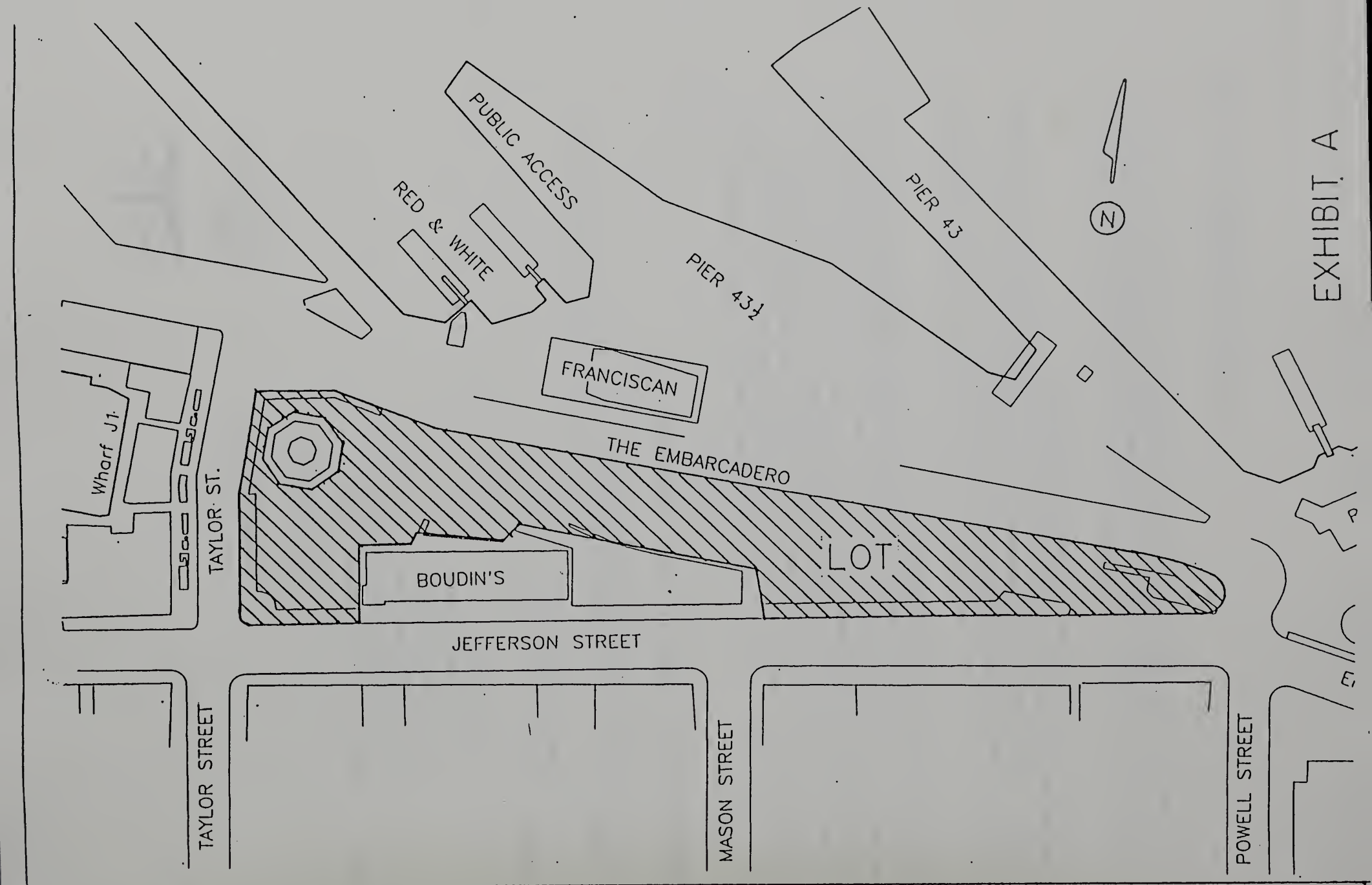
Hourly Rates:	$2.00 per ½ hour, with a maximum daily charge of $28.00.
Validated Parking:	Three hours free parking with validation from a full service restaurants which is a member of the Fisherman's Wharf Restaurant Association, and one hour free parking with validation from a crab stand which is a member of the Fisherman's Wharf Restaurant Association.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of March 28, 2000.

_____

Secretary

I:\Kirk\ Agenda Packages\Triangle Parking Lot Rates.doc



SAN FRANCISCO PORT COMMISSION
PORT OF SAN FRANCISCO

MANAGEMENT AGREEMENT
TRIANGLE PARKING LOT
FISHERMAN'S WHARF RESTAURANT ASSOCIATION

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Fax 415 274 0528
www.sfport.com

MEMORANDUM

March 22, 2000

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Brian McWilliams, Vice President
Hon. Denise McCarthy
Hon. Michael Hardeman
Hon. Pius Lee

FROM: Douglas F. Wong
Executive Director

SUBJECT: Approval of Amendments to Port Park Code Covering Certain Park and Public Access Areas Located on Port Property

DIRECTOR'S RECOMMENDATION: Approve Park Code

In 1996, by Resolution No. 96-21, the Port Commission adopted a Park Code, governing conduct and activities within Port public access areas (described in Appendix A to the Park Code attached hereto). The Port adopted the Park Code at the Redevelopment Agency's request, to set forth certain reasonable time, place and manner restrictions upon activities of the general public in South Beach Park and to allow for enforcement of such restrictions. At the same time, the Port extended the Park Code to cover public activities on all Port public access areas. The Port Commission's April 16, 1996, Agenda Memorandum and Resolution 96-21 are attached to this Memorandum to provide further background.

With the imminent opening of the Pacific Bell Park, the Giants are concerned with regulating activities on the public promenade areas around the ballpark to protect health, safety and welfare. In particular, the Giants are concerned with the safety issues arising from people jumping into China Basin from the promenade areas around Pacific Bell Park and would like to enable the police to cite people engaging in that activity.

In addition, since adoption of the Park Code, certain other parks and public access areas have been identified and should be brought under the Park Code, including Rincon Park, Heron's Head Park, and, in the future, the open spaces at Mission Bay. With respect to jurisdiction of

the Redevelopment Agency over South Beach Park, Rincon Park, and the future Mission Bay open spaces (collectively referred to as "Agency Parks"), the amendments to the Park Code make clear that for so long as the Redevelopment Agency leases an Agency Park from the Port Commission, the Redevelopment Agency is authorized to set rules and regulations for the Agency Parks subject to the prior approval of the Port's Executive Director, to issue permits for activities with the Agency Parks, and to designate persons to perform all other functions for the Agency Parks which would be performed by the Port's Executive Director for any other Port property covered by the Port Park Code.

The proposed amendments to the Park Code are attached hereto, blacklined to show new additions. Upon approval, the Park Code will be sent to the Board of Supervisors for approval by Ordinance. Port staff has prepared a graphical representation of the areas subject to the Park Code (attached as Appendix A to the Park Code). The Port Commission resolution authorizes staff to modify and update the map as needed to reflect the correct location of the open spaces and parks subject to the Park Code. As part of this action, the Port Commission will also approve Permit and Reservation Regulations governing the process and rules for the public to obtain permits from the Port for certain activities within Port open space and park areas.

Prepared by: Neil H. Sekhri
Assistant Port General Counsel

EXHIBIT

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

MEMORANDUM

April 16, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Francis J. O'Neill

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of Port Park Code Covering Certain Park and Public Access Areas Located on Port Property

DIRECTOR'S RECOMMENDATION: APPROVE PARK CODE

On December 2, 1995, the Redevelopment Agency opened the first phase of the Park in the Rincon Point/South Beach Project Area which is on land the Agency leases from the Port of San Francisco for a term of up to 55 years. The Agency has important interests in regulating activities in the Park to protect visitors from safety hazards, prevent damage to the property and facilitate special event coordination. As a result, the Agency has determined that there is a need to impose reasonable time, place and manner restrictions upon activities of the general public in South Beach Park.

Because the Redevelopment Agency does not possess police powers to enforce such restrictions, the Agency has requested the Port to adopt a Port Park Code ("Park Code"), based on relevant provisions of the City's Park Code, and extend the provisions of the Port Park Code over the South Beach Park area. The Agency has also requested the Port to authorize the Agency to issue permits and adopt rules governing South Beach Park for the duration of the Agency's lease with the Port for South Beach Park.

Under the Burton Act and Charter Section 3.581, the Port has the complete authority to manage, regulate and control the harbor of San Francisco and to do all things it deems necessary in connection with the use, conduct, operation, management, maintenance, regulation, improvement and control of the Port property. For example, pursuant to this authority, the Port has adopted its own Harbor Traffic Code. Although the Redevelopment Agency has requested the Port to adopt a Park Code, Port staff believe that it is also in the Port's best interests to set forth a code regulating activities on Port property open to public access. Consequently, Port staff has prepared a Park Code for your consideration, a copy of which is attached to the attached Resolution.

THIS PRINT COVERS CALENDAR ITEM NO. 5B

The proposed Park Code has been adapted directly from the City's Park Code which covers City property under the jurisdiction of the Department of Parks and Recreation. The proposed Park Code will cover South Beach Park, and other areas of Port property designated for public access, including, but not limited to, Pier 7, Ferry Plaza, the Port Embarcadero Promenade, Pier 43, Pier 43 1/2, Fisherman's Wharf Lagoon, Pier 47A, and Warm Water Cove. The maps attached as Exhibit A to the Park Code show the Port property subject to the Park Code.

The Park Code addresses the following items: (1) regulations governing conduct; (2) prohibitions on disorderly conduct; (3) regulations regarding animals; (4) regulations regarding traffic; (5) procedures regarding permits for activities conducted on park property; and (6) penalties, including misdemeanor and infraction penalties, for violations of the Park Code. The Park Code authorizes peace officers and delegated Port employees to carry out provisions of the Park Code.

In order to address the Redevelopment Agency's concerns, the proposed resolution adopting the Park Code delegates authority to the Redevelopment Agency Commission to set rules and issue permits for South Beach Park, and to designate persons who shall perform all other functions for South Beach Park which would be performed by the Port's Executive Director for any other Port property covered by the Park Code for so long as the Agency retains control of South Beach Park under its lease with the Port. The Redevelopment Agency has submitted to the Port their proposed rules for South Beach Park for approval. The Agency's rules are substantially the same as the Port Rules and Regulations attached hereto as Exhibit 1, except that the Agency is in charge of issuing permits and administering the regulations for South Beach Park. The Agency has agreed not to adopt any new rules or changes to existing rules without agreement thereto by the Port Commission, or its designee.

Article 6 of the Park Code provides that the Port Commission will adopt by resolution procedures for the filing and processing of permit applications. Port staff developed such procedures, which are attached hereto as Exhibit 1.

Because the Park Code provides for misdemeanor penalties and fines for infractions, authorizing legislation by the Board of Supervisors will be necessary to implement the Park Code.

Prepared by: Neil H. Sekhri, Assistant Port General Counsel

EXHIBIT

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-21

WHEREAS, Charter Section 3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, the Port Commission desires to adopt a Park Code in substantially the form attached hereto, setting forth rules and regulations governing conduct within public access areas of Port property; and

WHEREAS, the Redevelopment Agency has requested that the Port Park Code be extended to cover South Beach Park, and that the Port Commission authorize the Agency to adopt rules and issue permits for South Beach Park for the term of its lease therefor; and

WHEREAS, Board of Supervisors approval is necessary to authorize enforcement of the Park Code pursuant to the City's police powers; now, therefore, be it

RESOLVED, that the Port Commission hereby approves the Park Code in substantially the form attached hereto; and be it further

RESOLVED, that the Port Commission hereby approves the Rules and Regulations in substantially the form attached hereto, implementing Sections 2 and 6 of the Park Code, and hereby authorizes the Executive Director to make such amendments thereto as may be necessary from time to time to assist in the efficient administration of Port park property; and be it further

RESOLVED, that, for so long as the San Francisco Redevelopment Agency retains control of South Beach Park under its lease with the Port Commission, the governing body of the Redevelopment Agency is hereby authorized to set rules for South Beach Park (subject to the prior approval of the Port's Executive Director), and to issue permits therefor, and to designate persons who shall perform all other functions for South Beach Park which would be performed by the Port's Executive Director for any other Port property covered by the Park Code; and be it further

RESOLVED, that the staff of the San Francisco Port Commission is hereby directed to take all steps necessary and proper to carry out this resolution, provided however, that implementation of this resolution shall be conditioned upon passage of complimentary legislation by the Board of Supervisors.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of April 23, 1996.

Secretary

PORT COMMISSION
CITY & COUNTY OF SAN FRANCISCO

RESOLUTION NO. 00-28

WHEREAS, Charter Section 3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, The Port Commission is charged with promoting the Port area for waterborne commerce, navigation and fisheries, and uses that attract the public to use and enjoy the Bay recreationally; and

WHEREAS, The Port Commission is charged with ensuring the safety of the public using the publicly accessible Port areas and in furtherance thereof, may impose certain reasonable time, place and manner restrictions on activities within the public areas; and

WHEREAS, In furtherance thereof, the Port Commission, by Resolution No. 96-21, adopted a Port Park Code setting forth certain reasonable time, place and manner restrictions governing conduct within public access areas of Port property; and

WHEREAS, The Port Commission wishes to amend the Port Park Code to include additional public accessible areas and to modify certain provisions of the Port Park Code; and

WHEREAS, The San Francisco Redevelopment Agency currently leases, or in the future will lease, certain park property from the Port, including areas known as South Beach Park, Rincon Park, and open space located within the Mission Bay North and South Redevelopment Plan Areas; and

WHEREAS, The Redevelopment Agency has requested that the Port Park Code be extended to cover areas under lease with the Redevelopment Agency and that the Port Commission authorize the Agency to adopt rules and issue permits for Port park property under lease with the Redevelopment Agency; now therefore be it

RESOLVED, That the Port Commission hereby approves the Port Park Code, as amended, in substantially the form attached hereto, and authorizes Port staff to prepare and amend and attach to Appendix A as needed from time to time, a graphic representation of the areas of public access areas subject to the Port Park Code; and be it further

RESOLVED, That the Port Commission hereby approves the "Permit and Reservation Regulations for Parks Under Port Commission Jurisdiction" in substantially the form attached hereto, implementing Sections 2 and 6 of the Port Park Code, and hereby authorizes the Executive Director to make such amendments thereto, and to adopt such additional rules and regulations pursuant to Section 2.1 of the Port Park Code, as may be necessary from time to time to protect the public health, safety and welfare in the use of the Port's public access and park areas; and be it further

RESOLVED, That with respect to South Beach Park, Rincon Park, and any other Port park located within the Mission Bay North or Mission Bay South Redevelopment Plan areas, to the extent any such park is controlled by the Redevelopment Agency pursuant to the terms of a lease or other agreement between the Port and the Redevelopment Agency (collectively referred to as "Agency Parks"), for so long as the Redevelopment Agency leases an Agency Park from the Port Commission, the Redevelopment Agency is hereby authorized to adopt rules and regulations for the Agency Parks (subject to the prior approval of the Port's Executive Director), and to issue permits therefor, and to exercise all other authority over the Agency Parks which would otherwise be exercised by the Port Commission under the Port Park Code, including designating persons who shall perform all other functions for the Agency Parks which would be performed by the Port's Executive Director for any other Port property covered by the Port Park Code.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of March 28, 2000.

_____
Secretary

SAN FRANCISCO PORT COMMISSION
PORT PARK CODE

Adopted by the San Francisco Port Commission by Resolution No. 00-28 on March 28, 2000

SAN FRANCISCO PORT COMMISSION

[PORT] PARK CODE

PREAMBLE

Under the Burton Act and Charter Section ~~{3.581}~~ [B3.581], the San Francisco Port Commission has the complete and exclusive authority to manage, regulate and control the harbor of San Francisco and to do all things it deems necessary in connection with the use, conduct, operation, management, maintenance, regulation, improvement and control of ~~{the}~~ Port property. The Port has important interests in regulating activities on public access areas of Port property to protect visitors from safety hazards, prevent damage to the property and facilitate special event coordination. As a result, the Port has determined that there is a need to impose reasonable time, place and manner restrictions upon activities of the general public on the Port's public access areas. In keeping with its duties of administering the public trust, this Park Code is not intended to restrict the rights of the public to enjoy the waters of San Francisco Bay to the full extent those rights are granted under the public trust doctrine.

Article 1. Definitions.

Sec. 1 "Park" Defined.
Sec. 2 "Commission" Defined.
Sec. 3 "Executive Director" Defined.
Sec. 4 "Person" Defined.
Sec. 5 "Sign" Defined.
Sec. 6 "Vehicle" Defined.
Sec. 7 "Park Patrol" Defined.

[Sec.] 1. 1. **"Park" Defined**. When used in this code, the word "park" shall mean and include those certain grounds, **[public access areas, promenades, plazas,]** roadways, avenues, squares, recreation facilities, and other property identified in Appendix A ~~{hereto, which is}~~ **[attached hereto, and any other areas that are or become publicly-dedicated public access areas which are]** under the jurisdiction of the San Francisco Port Commission. Any park abutting the waters of San Francisco Bay shall not be deemed to include the waters of San Francisco Bay.

[Sec.] 1. 2. **"Commission" Defined**. When used in this Code, the word "Commission" refers to the San Francisco Port Commission of the City and County of San Francisco.

[Sec.] 1. 3. **"Executive Director" Defined**. When used in this Code, the words "Executive Director" refer to the Executive Director appointed by the Commission pursuant to Charter Section ~~{3.581}~~ **[B3.581]** or to a person designated by the Executive Director to act on his or her behalf.

[Sec.] 1. 4. "**Person" Defined**. The word "person" when used in this Code shall mean and include any person, association, partnership, firm or corporation.

[Sec.] 1. 5. "**Sign" Defined**. The word "sign" when used in this Code shall mean any literal, pictorial or symbolic representation, including, but not limited to, a written, printed, photocopied or painted message on any paper, cardboard, wood, metal, cloth, or other flat surface.

[Sec.] 1. 6. "**Vehicle" Defined**. When used in this Code, the word "vehicle" shall mean any device, in, upon, or by which a person or property is or may be propelled, moved or drawn upon a highway, excepting a device moved by human power or used exclusively upon stationary rails or tracks, and shall include, but not be limited to, the following: automobile, truck, motorcycle, motor-driven cycle, animal-drawn carriage, buckboard, cart, and minibike or bicycle when operated under engine power.

[Sec.] 1. 7. "**Park Patrol" Defined.** When used in this Code, the words "Park Patrol" refer to persons hired as employees or contractors of the Commission or City and County of San Francisco to patrol the areas under the jurisdiction of the Commission.

Article 2. Regulations

Sec. 2.1 Rules of Port Commission to Be Obeyed.
Sec. 2.2 Signs to Be Obeyed.
Sec. 2.3 Public May Be Excluded.
Sec. 2.4 Athletic Activities Prohibited in Certain Areas.
Sec. 2.5 Restrictions on Posting of Signs[.]
Sec. 2.6 Personal Services.
Sec. 2.7 Airplanes, Helicopters, Hot Air Balloons, Etc., Prohibited.
Sec. 2.8 Peddling and Vending Merchandise or Printed Material.
Sec. 2.9 Camping Prohibited.
Sec. 2.10 Sleeping Prohibited During Certain Hours.
Sec. 2.11 Performance of Labor.
Sec. 2.12 Building Materials.
Sec. 2.13 Ground to Be Restored to Condition.
Sec. 2.14 Warning Signals at Danger Points.

[Sec.] 2.1. **Rules of Port Commission to Be Obeyed**. **[From time to time, the Port Commission (or the Redevelopment Agency Commission pursuant to Article 7 hereof) may adopt and post rules and regulations implementing the provisions of this Port Park Code.]** No person shall willfully disobey or violate any of the rules or regulations of the Commission **[or the Redevelopment Agency]** governing the use and enjoyment by the public of any park or of any building, structure, equipment, apparatus or appliance in any park, which rules or regulations, at the time, are posted in some conspicuous place in that area of the park or in or near the building, structure, equipment, apparatus or appliance to which the rule or regulation applies.

[Sec.] 2.2. **Signs to Be Obeyed**. No person shall willfully disobey the notices, prohibitions or directions on any sign posted by the Commission.

[Sec.] 2.3 **Public May be Excluded**. In case of an emergency, or when in the judgment of the Commission or the Executive Director the public interest demands it, any portion of any park or park building therein may be closed to the public until such park area or building is reopened to the public by the Commission or the Executive Director: ~~{provide}~~ **[provided]**, however, that nothing in this Section shall authorize the Executive Director to close any portion of any park building because of activities, existing or anticipated, engaged in for the purpose of expressing ideas or causes, which activities are protected by the First Amendment to the United States Constitution.

[Sec.] 2.4 **Athletic Activities Prohibited in Certain Areas**. Where a sign is posted, no person shall participate in any athletic activity, including, but not limited to running, jogging, volleyball, baseball, soccer, football, roller skating, bicycle riding, skateboarding, or frisbee. The prohibition contained in this Section applies to running or jogging only when the person running or jogging does not remain on pedestrian paths.

[Sec.] 2.5 **Restrictions on Posting of Signs**.

(A) No person shall post or affix to any tree, shrub, plant, fence, building, monument, wall, post, vehicle or other physical object in any park any written or printed material, including, but not limited to, signs, notices, handbills, circulars and pamphlets.

(B) Notwithstanding Section 2.5, signs may be posted in the following circumstances:

(1) Any person who has scheduled an event in any park pursuant to a permit from the Executive Director may erect or post signs on the day that the event is scheduled to occur giving directions to such event, provided that such person receive prior approval from the Commission.

(2) Any person leasing the park from the Commission may post signs on or about the premises leased informing the public of the event scheduled to occur, provided that the locations selected for such posting have been designated by the Executive Director as appropriate for such use, which designated location or locations for such facility shall be applicable to all lessees of such facility, and provided further, that such signs not be posted earlier than one week before the event is scheduled to occur nor later than one week after the event is over~~{;}~~**[.]**

(3) Persons and organizations maintaining and operating recreational facilities on park property on a daily basis may post signs which identify the facilities which provide information pertaining to recreational activities, or which inform the public of events sponsored by such persons and organizations or of regulations governing such facilities, provided (A) that such signs are posted only on the facilities so operated and maintained, whether inside or outside and (B) that if they are posted outside, the organization receive prior written approval from the Executive Director.

(4) The Commission or its designee may post signs in any park or in any facility in any park governing the public use of park property or informing the public of events sponsored by the Commission.

(C) When a person or organization is required to obtain the prior written approval of the

Executive Director in order to post a sign in a park, the Executive Director may withhold such approval only if it finds that the location of such sign or signs would harm public or private property, or inconvenience or endanger the public, or unduly cover or block park facilities.

(D) No sign which is posted pursuant to this Section shall be affixed to any tree, shrub or plant.

[Sec.] 2.6. **Personal Services**. No person shall use any of the facilities or areas of any park for the purpose of providing tennis, golf, sailing, boating, baseball, jogging, horseback riding or other athletic instruction for compensation without first having obtained a permit, concession, license or lease from the Executive Director.

[Sec.] 2.7 **Airplanes, Helicopters, Hot Air Balloons, Etc., Prohibited**. No person shall launch nor land any airplane, helicopter, parachute, hang glider, hot air balloon, nor any other machine or apparatus of aviation in any park, nor shall any person bring into any park any balloon with a diameter of more than six feet or a gas capacity of more than 115 cubic feet, without written permission of the Executive Director.

[Sec.] 2.8 **Peddling and Vending Merchandise or Printed Material**. No person shall bring, or cause to be brought, for the purposes of sale or barter, or have for sale, or sell or exchange, or offer for sale or exchange any food, beverage, goods, wares, or merchandise in any park without first having obtained a permit, concession, license or lease from the Executive Director.

[Sec.] 2.9 **Camping Prohibited**. No person shall construct or maintain any building, structure, tent or any other thing in any park that may be used for housing accommodations or camping, except by written permission from the Executive Director.

[Sec.] 2.10 **Sleeping Prohibited During Certain Hours**. No person shall remain in any park for the purpose of sleeping between the hours of 10:00 p.m. and 6:00 a.m., except that special permission may be granted by the Executive Director to persons providing security services between said hours in any park or for other unusual events.

[Sec.] 2.11 **Performance of Labor**. No person, other than duly authorized personnel, shall perform any labor, on or upon any park, including, but not limited to, taking up or replacing soil, turf, ground, pavement, structure, tree, shrub, plant, grass, flower and the like, without written permission of the Executive Director.

[Sec.] 2.12 **Building Materials**. No person shall place, pile, deposit or leave any building material in any park without first having obtained all necessary permits, included but not limited to building permits from the Executive Director.

[Sec.] 2.13 **Ground to Be Restored to Condition**. Where work has been done in any park pursuant to a permit, the permittee shall repair, reconstruct, and put the ground in as good condition in all respects when the work shall have been completed or terminated or such permit shall have expired, as said ground was in when said permit was granted or said work

commenced; the condition of the ground, site or place in the park where the work has been done pursuant to any permit shall be made satisfactory to the Executive Director, and on the completion of said work the permittee shall forthwith remove all buildings, structures, machinery or equipment used in connection with said work from the park.

[Sec.] 2.14 **Warning Signals at Danger Points**. Every person who does any act in any park, whether the act is done by that person or by an agent or at the person"s direction, and whether the person is acting as principal, contractor, or employer, and by that act makes the park or any portion of it dangerous must erect and, so long as the danger continues, maintain around the portion of the park so made dangerous a good and substantial barrier, and shall maintain at appropriate places along such barrier, during every night, from sunset until daylight, flashing lights, flares or some other suitable light sufficient to give warning of said danger.

Article 3. Disorderly Conduct

Sec. 3.1 Disorderly Conduct.
Sec. 3.2 Swimming Restrictions.
Sec. 3.3 Polluting Waters Prohibited.
Sec. 3.4 Littering and Dumping of Waste Matter Prohibited.
Sec. 3.5 Malicious Destruction of Property.
Sec. 3.6 Removal of Trees, Wood, Etc.
Sec. 3.7 Penalties for Violation of Section 119.
Sec. 3.8 Interference with Port Commission and Park Employees.
Sec. 3.9 Alcoholic Beverages.
Sec. 3.10 Persons Intoxicated by Alcohol or Drugs May Be Excluded.
Sec. 3.11 Persons May Be Excluded Under Certain Circumstances.
Sec. 3.12 Refusal to Obey Lawful Order.
Sec. 3.13 Fighting, Disturbing Peace, Offensive Words.
Sec. 3.14 Intoxication by Alcohol or Drugs.
Sec. 3.15 Minors, Parents and Guardians Of.

[Sec.] 3.1. **Disorderly Conduct**. No person shall, in any park, without written permission of the Executive Director:

(A) Throw or propel objects of a potentially dangerous nature, including, but not limited to, stones, bottles, glass, cans or crockery;

(B) Fire or carry firearms of any size or description, or possess any instrument, appliance or substance designed, made or adopted for use primarily as a weapon, including, but not limited to, **[air rifles,]** slingshots, clubs, swords, razors, billies, explosives, dirk knives, bowie knives or similar knives, except that this subsection shall not apply to a police or other peace officer;

(C) Fire or carry any firecracker, rocket, torpedo or other fireworks of any description (this subsection shall not be deemed to contradict any provisions contained in Chapter VIII (Police Code) of the San Francisco Municipal Code);

(D) Carry or use a model airplane which is powered by liquid fuel or designed to be used with such fuel;

(E) Make, kindle, maintain or in any way use a fire except at places provided, designated

and maintained by the Commission for such use;

(F) Climb or lie upon any tree, shrub, monument, wall, fence, shelter, fountain, statute, building, construction or structure;

(G) Emit, eject, or cause to be deposited any excreta of the human body, except in proper receptacles designated for such purposes;

(H) Expose his or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region or any portion of the female breast at or below the areola thereof, except that this section shall not apply to children under the age of five years;

(I) Enter a restroom or toilet set apart for use of the opposite sex, except children under the age of five years accompanied by a parent or guardian and duly authorized personnel for the purpose of inspection, maintenance or repair;

(J) Gain or attempt admittance to facilities in any park where a charge is made, without paying that charge;

(K) Play any percussion instrument, including drums, at any time or location prohibited by resolution of the Commission when a sign has been posted in the area affected to give notice of this prohibition; provided that such resolution does not unreasonably curtail the playing of such instruments in any area of the city.

[Sec.] 3.2 **Swimming Restrictions**. No person shall enter, wade or swim in the waters of any lake, pond, pool, tank, fountain or reservoir in any park except where permitted by regulation or special written permission of the Executive Director. This restriction does not prohibit persons from entering, wading or swimming in the waters of San Francisco Bay **[except in areas where a sign is posted prohibiting such entering, wading or swimming. Without limiting the foregoing, no persons shall enter the waters of San Francisco Bay from the public access areas located on or adjacent to the Pacific Bell Park (the ballpark) for the purposes of wading or swimming except by special written permission by the Executive Director.**

Sec.]~~[.~~

~~[~~ 3.3 **Polluting Waters Prohibited**. No person shall throw or place, or cause to be thrown or placed, any garbage, trash, refuse, paper, container, or nauseous or offensive matter into any pool, pond, tank, or fountain in any park, or into the waters of San Francisco Bay.~~[.~~

~~[~~

In addition, attention is called to the fact that state law prohibits the littering or dumping of waste into lakes and other bodies of water.

[Sec.] 3.4 **Littering and Dumping of Waste Matter Prohibited**. Attention is called to the fact that state law prohibits the littering or dumping of waste matter in any public park. In addition, attention is called to City and County of San Francisco Health Code Section 1150, prohibiting the release or dumping of hazardous waste on public property.

[Sec.] 3.5 **Malicious Destruction of Property**. Attention is called to the fact that state law prohibits the malicious defacement, damage or destruction of real or personal property.

[Sec.] 3.6 **Removal of Trees, Wood, Etc**. No person shall remove or take away any tree, wood, bush, turf, shrub, flower, plant, grass, soil, rock, or anything of like kind from any park without written permission of the Executive Director.

[Sec.] 3.7 **Penalties for Violation of Section 3.6**.

(A) Any person convicted of a violation of Section 3.6 of this Code shall be punished by a mandatory fine of not less than $50 nor more than $500 upon a first conviction, by a mandatory fine of not less than $100 nor more than $500 upon a second conviction and by a mandatory fine of not less than $150 nor more than $500 upon a third or subsequent conviction.

(B) The court shall, in addition, impose a civil penalty or an amount necessary to reimburse the Commission for the value of the tree, wood, bush, turf, shrub, flower, plant, grass, soil, compost, rock, water or other material removed as well as any labor expended to replant or otherwise restore the area affected. Any revenue collected as a civil penalty pursuant to this Section shall be credited to the Commission.

[Sec.] 3.8 **Interference with Port Commission Employees**. No person shall, with malice, interfere with or in any manner hinder any employee of the Commission or a duly authorized contractor while that person is engaged in constructing, repairing, or caring for any portion of the park or is otherwise engaged in the discharge of such employee"s duties.

[Sec.] 3.9 **Alcoholic Beverages**. No person shall consume alcoholic beverages of any kind ~~{in any building, children"s playground, swimming pool, or restroom, except with the written permission of }~~**[within any park, or in any of the parks or portions of parks, except that]** the Executive Director **[or the Port Commission may grant permission to consume alcohol in the parks and portions of parks where such activity is prohibited if the Port Commission or the Executive Director determines that the consumption of alcohol will not interfere with the public's use and enjoyment of the park.**

Sec.]~~{.~~

~~}~~ 3.10 **Persons Intoxicated by Alcohol or Drugs May Be Excluded**. Members of the San Francisco Police Department and Port Commission employees, including members of a Park Patrol, are authorized to order persons to stay out of, or to leave, any park, or any facility, building or structure therein, when such officers or employees have reasonable cause to conclude that the person so ordered is under the influence of intoxicating liquor, any drug, or any "controlled substance" as that term is defined and described in the California Health and Safety Code, or any combination of any intoxicating liquor, drug, or controlled substance, and is in such a condition that he or she is unable to exercise care for his or her own safety or the safety of others or interferes with or obstructs or prevents the free use of park property.

[Sec.] 3.11 **Persons May Be Excluded Under Certain Circumstances**. Members of the San Francisco Police Department and Commission employees, including members of a Park Patrol, are authorized to order any person to stay out of or to leave any park, or any facility, building or structure therein, when such officers or employees have reasonable cause to conclude that the person:

(A) Is consuming alcoholic beverages in violation of ~~{Section 3.10 of this Code;}~~ **[Sections 3.9 or 3.10 of this Code, the City"s Police Code, or any other local, state or federal law or regulation; or]**

(B) Is using any drug or controlled substance, as defined above, or any combination of any intoxicating liquor, drug, or controlled substance; or

(C) Is doing any act injurious to any park or any building, structure or facility therein; **[or]**

(D) While using any athletic facility or area, disobeys any rule or regulation governing such area or facility after being warned not to do so by a Commission or Park Employee, including members of a Park Patrol, when the employee has reasonable cause to conclude that such behavior damages or risks damage to park property or interferes with the use and enjoyment of such area or facility by other persons; or

(E) Behaves in so noisy, boisterous or rowdy a manner as to disturb spectators or participants at an athletic event.

[Sec.] 3.12 **Refusal to Obey Lawful Order**. It shall be unlawful for any person to refuse to obey the lawful order of a police officer or an employee of the Commission made pursuant to Section 3.11 of this Code.

[Sec.] 3.13 **Fighting, Disturbing Peace, Offensive Words**. Attention is called to the fact that state law prohibits unlawful fighting in public places, the malicious and willful disturbance of others by loud and unreasonable noise, and the use of offensive words in a public place which are inherently likely to provoke an immediate violent reaction.

[Sec.] 3.14 **Intoxication By Alcohol or Drugs**. Attention is called to the fact that state law provides that any person in a public place who is under the influence of intoxicating liquor, drugs, or certain specified substances and endangers himself or others or interferes with the free use of a public way is guilty of disorderly conduct.

[Sec. 3.15] **Minors, Parents and Guardians Of**. No parent, guardian or custodian of a minor shall permit or allow such minor to do any act or thing in any park prohibited by the provisions of this Code.

Article 4. Animals

Sec. 4.1 Dogs, Cats Only Allowed.
Sec. 4.2 Animals Prohibited from Certain Areas.
Sec. 4.3 Cats Must Be on Leash or in Transport Box.
Sec. 4.4 Vicious Animals Prohibited.
Sec. 4.5 Abandonment of Animals Prohibited.
Sec. 4.6 Feeding Animals Prohibited.
Sec. 4.7 Disturbing Animals, Birds, Fish Prohibited; Exceptions.

[Sec.] 4.1 **Dogs, Cats Only Allowed**. No person shall lead, drive, conduct or otherwise bring or allow to remain in any park any animal, bird, fish or reptile other than dogs

and domestic cats. This Section shall not apply to persons acting pursuant to a permit from the Executive Director when the permit allows the presence of such animal, bird, fish or reptile. This Section shall not prohibit any person from transporting fish or shellfish legally caught in San Francisco Bay from the shoreline of any park across such park.

[Sec.] 4.2 **Animals Prohibited From Certain Areas**. No person, other than members of the Police Mounted Detail when on duty, shall, in any park, allow any animal in his or her custody to enter any building, or any playground, sandbox or other area reserved for children, or to enter or drink the water of any drinking fountain, lake or pond located in any park, not including San Francisco Bay, except at places designated and maintained for such purpose. Notwithstanding the above provision, a blind person may enter these areas with a guide dog.

[Sec.] 4.3 **Cats Must Be on Leash or In Transport Box**. No person shall carry, lead, conduct or otherwise bring or allow to remain in any park a domestic cat unless the animal is on **[a]** leash not exceeding six feet in length or in an animal transport box equipped with vent holes capable of providing the animal with sufficient air.

[Sec.] 4.4 **Vicious Animals Prohibited.** No person shall keep or permit to remain in any park a noisy, vicious, or dangerous animal or an animal which unduly disturbs other persons **[or other animals]** in the park.

[Sec.] 4.5 **Abandonment of Animals Prohibited**. No person shall abandon any animals in any park.

[Sec.] 4.6 **Feeding Animals Prohibited**. It shall be unlawful for any person to feed or offer to any animal in any park any substance which would be likely to be harmful to it.

[Sec.] 4.7 **Disturbing Animals, Birds, Fish Prohibited; Exceptions**. Except as provided in Article 7, Chapter VIII (Police Code) of the San Francisco Municipal Code, it shall be unlawful for any person, including City and County of San Francisco, its officers, employees or agents, to hunt, chase, shoot, trap, discharge or throw missiles at, molest, disturb, capture, injure, or destroy any animal in any park, or to permit any animal in such person"s custody or control to do so; provided, however, ~~{than}~~ **[that]** any mole or any gopher, mouse, rat or other rodent which is determined by said Executive Director to be a nuisance may be destroyed by said Executive Director or a designated representative; and ~~{provide}~~ **[provided]**, further, that any animal other than a mole or a gopher, mouse, rat or other rodent which is determined by said Executive Director to be a nuisance or a hazard to persons using said areas or to be a hazard to plants or other horticulture, may, in a humane manner, be live trapped by said Executive Director and delivered to the Animal Control Officer for disposition pursuant to the provisions of Sections 41.7 through 41.9, inclusive, of Article 1, Chapter V (Health Code) of the San Francisco Municipal Code. This Section shall not restrict in any way the rights of the public to fish in San Francisco Bay.

Article 5. Traffic Regulations

Sec. 5.1 Operation and Parking of Vehicles.
Sec. 5.2 Towing of Vehicles.
Sec. 5.3 Commercial Vehicles Prohibited.
Sec. 5.4 Parking of Sightseeing Buses.
Sec. 5.5 Transportation of Residential or Commercial Garbage.
Sec. 5.6 Soliciting Passengers for Vehicles Prohibited.
Sec. 5.7 Penalties.
Sec. 5.8 Exceptions

[Sec.] 5.1 **Operation and Parking of Vehicles.**

(A) No person shall drive or propel any vehicle within any park except upon the paved roads, driveways, and highways provided or unpaved roads designated by sign or signal for use by such vehicular traffic;

(B) All persons operating vehicles must drive or propel them in a careful manner, at a lawful rate of speed, and in accordance with the rules and regulations of the Commission, San Francisco Traffic Code, Port of San Francisco Harbor Traffic Code and California Vehicle Code, as such rules ~~{we}~~ **[are]** amended from time to time;

(C) No person shall drive or propel any vehicle on any planted area or on any access road or unpaved service road or fire trail in any park;

(D) No person shall park any vehicle on any lawn, or planted area, or unimproved area or on any pedestrian or equestrian lane, or on any access road or unpaved service road or fire trail or in any manner so as to block access to or exit from any pier, service road or access road or fire trail, or in any other place in the park where the rules and regulations of the Commission prohibit vehicular parking, unless allowed otherwise by permit;

(E) No person shall wash, grease, or repair any vehicle in any park except insofar as repairs may be necessary for the immediate removal of any damaged or disabled vehicle from the park;

(F) No vehicle shall be parked on any road, place or highway in any park except on the extreme side of said road, place or highway and immediately adjacent to an curb or any planted portion of the park. The Commission shall have full power and authority to set aside suitable space for the parking of any vehicle off any road, place or highway. The extreme right of said road, place or highway shall be deemed to be the right-hand side of any road, place or highway as measured or applied in the direction in which any vehicle is traveling. Nothing in this Section shall be deemed to prohibit parking on the extreme left side of any on-way road or highway, provided such parking is otherwise permitted, which side shall be deemed to be the left-hand side of any road or highway as measured or applied in the direction in which any vehicle is traveling.

(G) No person shall park any automobile or any other vehicle, including a horse trailer, whether attended or unattended, in any park, between the hours of 10:00 p.m. and 6:00 a.m. except (1) when attending an event or function authorized by the Commission or Executive Director, and then only when the person parks the vehicle in an area specifically designated for such parking in connection with said event or function; (2) when such parking is necessary because of an emergency, such as a flat tire or other mechanical failure, in which case the vehicle shall not be parked any longer than necessary; or (3) when a sign is posted or notice is otherwise provided that parking is permitted in a designated area between 10:00 p.m. and 6:00 a.m., or some portion of those hours.

(H) No person shall, in any park, allow any automobile or other vehicle to remain parked in any parking lot which is open for public use and for which a fee is charged for parking, for a period of more than 24 hours after the expiration of the period for which the fee is charged, unless otherwise allowed by permit.

(I) No person shall, in any park, allow any automobile or any other vehicle that is disabled to remain parked in any parking lot which is open for public use and for which a fee is charged for parking, unless otherwise allowed by permit.

[Sec.] 5.2 **Towing of Vehicles**. Whenever any member of the San Francisco Police Department, employee or lessee authorized by the Commission finds any vehicle parked in violation of Sections 5.1(D), (E), (F), (G), (I), of this Code, such officer, employee or lessee may provide for the removal of such vehicle, so long as signs have been posted to inform the public that vehicles so parked are subject to removal and, with respect to Section 5.1(H), so long as there is an attendant on duty or other facilities permitting the patron to pay or remit the parking charges at the time the vehicle is first parked.

The procedure for removal and impounding of vehicles shall be as is provided for in applicable provisions of the San Francisco Traffic Code and Sections 22850 to 22855 of the California Vehicle Code.

Moreover, any vehicle stopped, parked or left standing in such a manner as to violate Sections 5.1(D), (E), (F), (G), (I), of this Code is an obstruction to the free use of property and a nuisance within the meaning of Part III of the Civil Code of California relating to nuisances and the abatement thereof.

[Sec.] 5.3 **Commercial Vehicles Prohibited**. No person shall bring or cause to be brought into any park any vehicle designed, used or maintained primarily for the transportation of goods, food, beverage, wares, merchandise, soil, building material or other article or thing of commerce or trade unless such person is ~~{bring}~~ **[bringing]** such vehicle into a park by written permission of the Executive Director.

[Sec.] 5.4 **Parking of Sightseeing Buses**. No person shall park a sightseeing bus in any park unless such person (1) has obtained a permit from the Executive Director and paid any fee which may be required by the Commission for the issuance of such a permit and (2) parks in an area which has been designated by the Commission as a parking area for sightseeing buses, either by the posting of a sign or by written notice kept on file with **[the]** Executive Director ~~{of}~~ **[or]** the Commission and made available to any interested person upon request.

[Sec.] 5.5 **Transportation of Residential Or Commercial Garbage**. It is unlawful to transport residential or commercial garbage within any vehicle within the confines of any park. "Garbage" shall include, but not be limited to, the following: Dry or wet fill, emptied food containers, metallic machinery parts, auto parts, refuse, offal, vegetables, paper, dirt, remains of food, newspapers, filth or rubbish. This section shall not apply to an authorized scavenger service which is servicing any facility or area in any park.

[Sec.] 5.6 **Soliciting Passengers For Vehicles Prohibited**. No person shall solicit or arrange or contract or make any agreement for or establish or maintain any stand or other

equipment for procuring customers or passengers for any carriage, coach, automobile, bus, horse drawn carriage or other vehicle, let or used for hire, in any park without first having obtained a permit to do so from the Commission. Nor shall any person drive or park a taxicab in any park for the purpose of procuring customers unless such person is responding to a call for a taxicab.

[Sec.] 5.7 **Penalties**. A person who violates Section 5.1(C), (D), (E), (F) or (G) of this Code shall be guilty of an infraction and upon conviction thereof shall be punished for the first offense by a fine not to exceed $50; for the second offense committed within a one-year period by a fine not to exceed $100; for a third and each additional offense committed within a one-year"s period by a fine not to exceed $250.

This Section shall not be deemed to contradict Section 137 of this Code concerning the towing of vehicles in violation of Section 136 (D), (F) or (G).

[Sec.] 5.8 **Exceptions**. The provisions of this Article shall not apply to any person employed by the City and County of San Francisco, while in the discharge of authorized duties and while operating an official vehicle or any other vehicle with an appropriate permit displayed.

Article 6. Permits

Sec. 6.1 Permits-Purpose
Sec. 6.2 Definitions.
Sec. 6.3 Permits Required.
Sec. 6.4 Additional Activities Requiring Permits.
Sec. 6.5 Permit Procedure.
Sec. 6.6 Conditions.
Sec. 6.7 Permits-Basis for Denial[.]
Sec. 6.8 Petitioning, Leafletting, Picketing, Soliciting.
Sec. 6.9 Reservations of Buildings.
Sec. 6.10 Sales Prohibited at Art Shows.
Sec. 6.11 Commercial Photography, Filming, Recording.
Sec. 6.12 Permits-Athletic Events.
Sec. 6.13 Permit Requests by Governmental Units.
Sec. 6.14 Permits-Rights Granted.
Sec. 6.15 Duties of Permittee.
Sec. 6.16 Permits-Failure to Obtain.
Sec. 6.17 Procedure for Billing Costs.
Sec. 6.18 Violation of Permit Conditions.
Sec. 6.19 Appeal.

[Sec.] 6.1 **Permits-Purpose**. Although the First Amendment of the U.S. Constitution and Article 1, Section 9 of the California Constitution guarantee freedom of speech and association, the City and County of San Francisco is authorized to impose reasonable restrictions on the time, place and manner of such expression. In accordance with this right, the Commission requires permits for certain activities which occur on park property in order (1) to coordinate activities planned by different groups so that as many people as possible can use and

enjoy the park at the same time; (2) to learn the details of the proposed activity in order to establish rules in order to establish rules aimed at preventing inconvenience or harm to the public or the park; (3) to require appropriate insurance in order to relieve the Commission of liability from any harm that occurs; and (4) to insure that recreational facilities most suited for the activity are used.

[Sec.] 6.2 **Definitions**. For the purposes of this Article, the following terms shall be defined as indicated below:

(A) **Amusement Park Rides**- Rides of the type normally found in amusement parks or carnivals, such as ferris wheels.

(B) **Animal Show**- The formal exhibition of animals to the public or to a group of 25 or more persons for entertainment or competition.

(C) **Art Shows**- The exhibition or display of paintings, sculptures or other works of art, but not activities performed by street artists licensed pursuant to Part II, Chapter VIII (Police Code) of the San Francisco Municipal Code.

(D) **Band**- A group of musicians playing acoustical instruments normally played in a brass band.

(E) **Demonstration**- Carrying or wearing a sign or signs, singing, talking in unison or in any other manner expressing ideas, advocating causes or conveying a message to the public at large or to a particular person or persons.

(F) **Exhibition**- Public display of manufactured goods, plants or other objects but not displays by street artists licensed pursuant to Part II, Chapter VIII (Police Code) of the San Francisco Municipal Code.

(G) **Leafletting**- Distributing leaflets, handbills, notices or any written material to the public.

(H) **Orchestra**- A group of musicians playing string, percussion, brass and wood wind instruments.

(I) **Parade**- Any march or other organized movement or person from place to place or about a place.

(J) **Petitioning**- Requesting persons to sign a petition.

(K) **Publicize**- To inform the public of a planned event by means of newspaper articles or notices, radio or television stories or notices, announcements in public places, leafletting, posting signs or written notices in places viewed by the public, or by other means calculated to notify the public of an event.

(L) **Soliciting**- Requesting persons to contribute money or anything else of value for charitable, religious or political cause.

[Sec.] 6.3 **Permits Required**. No person shall, without a permit, perform any of the following acts in any park:

(A) Conduct or sponsor a parade involving (1) 50 or more persons; (2) the use of any street in any park; or (3) vehicles.

(B) Conduct or sponsor an event in which persons engage in petitioning, leafletting, demonstrating or soliciting when the number of petitioners, leafletters, demonstrators, or solicitors engaging in one or more of these activities involves 50 or more such persons at the same time within an area circumscribed by a 500 foot radius.

(C) Sell or offer for sale books, newspapers, periodicals, or other printed material.

(D) Conduct or sponsor any exhibit, promotion, dramatic performance, theatrics, pantomime, dance, fair, circus, festival, juggling or other acrobatics or show of any kind or nature which has been publicized four hours or more in advance.

(E) Perform any feat of skill or produce any amusement show, movie or entertainment which has been publicized four hours or more in advance.

(F) Make a speech which has been publicized four hours or more in advance.

(G) Conduct or sponsor a religious event involving 50 or more persons;

(H) Conduct or sponsor a concert or musical performance which (1) has been publicized four hours or more in advance, or (2) utilizes sound amplification equipment, or (3) involves a band or orchestra.

(I) Participate in a picnic, dance or other social gathering involving 25 or more persons.

(J) Sell or provide food to persons, except that no permit is required when a person participating in a picnic or social gathering of 25 or fewer persons provides food to others who are also participating in the picnic or social gathering.

(K) Conduct or sponsor a race or marathon which involves 25 or more persons as participants or which obstructs or interferes with the normal flow of vehicular or pedestrian traffic.

(L) Conduct or sponsor any event which utilizes sound amplification equipment, as defined in Part II, Chapter VIII (Police Code) of the San Francisco Municipal Code.

(M) Conduct or sponsor an exhibition.

(N) Conduct or sponsor an animal show.

(O) Conduct a wedding ceremony.

(P) Conduct or sponsor an art show.

(Q) Operate any amusement park device. The Commission or the Executive Director may prohibit the operation of such devices in any park or, if it allows such operation, may designate those locations where such operation is permitted.

(R) Conduct or sponsor an organized kite-flying event of any club or organization.

(S) Station or erect any table scaffold, stage, platform, rostrum, tower, stand, bandstand, building, fence, wall, monument, dome or other structure.

(T) Park any vehicle in any park in an area not normally used for parking vehicles or in an area normally used for parking vehicles when the vehicle is used in conjunction with an activity for which a permit is obtained pursuant to a provision of this Code other than this subsection.

[Sec.] 6.4 **Additional Activities Requiring Permits**.

(A) Attention is called to other provisions of this Code which require persons engaging in certain activities to obtain a permit, including, but not limited to, the following:

(1) Launching or landing any airplane, seaplane, helicopter, parachute, hang glider, hot air balloon or other machine or apparatus of aviation, in any park, or bringing into a park any balloon with a diameter of more than six feet or a gas capacity of more than 115 cubic feet;

(2) Bringing, or causing to be brought, for the purposes of sale or barter, or having for sale, or selling or exchanging, or offering for sale or exchange any food, beverage, goods, wares or merchandise;

(3) Constructing or maintaining any building, structure, tent or any other thing in any park that may be used for housing accommodations or camping;

(4) Remaining in any park for the purpose of sleeping between the hours of 10:00 p.m. and 6:00 a.m. in order to provide security services between said hours in any park.

(B) The Commission may by resolution require a permit for additional activities when such a requirement further the purposes set forth in Section 6.1 of this Code.

[Sec.] 6.5 **Permit Procedure**. ~~{The Commission shall by resolution adopt procedures}~~ **[Procedures]** for the filing and processing of permit applications, **[have been approved by Port Commission resolution,]** which resolution ~~{shall be filed}~~ **[is on file]** with the Port Commission and shall be made available to the public upon request. ~~{The resolution required by this Section, as well as any amendment thereto is subject to the approval of the City Attorney.}~~ The Executive Director is hereby authorized to make any non-substantial amendments to such permit procedures necessary for the efficient administration of the permit process.

[Sec.] 6.6 **Conditions**.

(A) The Executive Director or the Commission may impose reasonable conditions on approval of a permit application that are specifically designed to protect public or private property from damage and to preserve the comfort, convenience, safety or welfare of the public. Such conditions may be imposed on a permittee after the permit application has been approved if information has been received by the Executive Director after such approval which would provide reasonable grounds for the conclusion that further conditions are necessary, including the condition that the location of the proposed activity be changed. The provisions of this Section are designed to secure for permit holders an opportunity fully to exercise the rights conferred upon them by the permit without unreasonably interfering with the rights of other members of the public to use park property and adjacent areas or to engage in First Amendment activities. The Executive Director shall in no event impose conditions pursuant to this Section which are designed to limit the content of First Amendment expression engaged in by persons affected by the permit or which unreasonably interfere with the right of free speech.

(B) The conditions which may be imposed on permit applicants include the following: (1) posting a performance bond to insure the property is restored and cleaned at the conclusion of the permitted activity; (2) providing insurance to protect the City from liability from any harm that such activity might cause; and (3) agreeing to reimburse the Commission for any costs incurred by it in restoring damage to property caused by the actions of the permittee, its officers, employees, or agents, or any person who was, or reasonably should have been, under the permittee"s control and to defend the City against, and indemnify and hold the City harmless from, any liability to any person resulting from any damage or injury cause by the actions of the permittee, its officers, employees, or agents, or any person who was or reasonably should have been, under the permittee"s control.

(C) When an applicant for a permit to perform an activity which is protected by the First Amendment to the U.S. Constitution and for which a performance bond must be posted produces evidence that providing a cash performance bond would be impossible or so financially burdensome that it would preclude the applicant from using park property for the proposed activity, the Executive Director shall accept property in lieu of a cash performance bond so long

as the property offered is of a type which will reasonably insure restoration and cleaning of the property to be used by the applicant at the conclusion of the permitted activity.

(D) No applicant shall be required to comply with the provisions of Subsection (B)(2) pertaining to insurance if the activity proposed is protected by the First Amendment of the U.S. Amendment of the U.S. Constitution and the applicant produces evidence that complying with those provisions is impossible or so financially burdensome that it would preclude the applicant from using park property for the proposed activity.

[Sec.] 6.7 **Permits-Basis For Denial**. The Executive Director shall approve a permit application unless:

(A) A written application for a permit to use the same location at the same time has been received and such application has been or will be approved authorizing an activity which does not reasonably permit multiple occupancy of the area;

(B) The proposed activity would conflict with a previously planned program sponsored by the Commission and scheduled for the same location as that requested by the applicant;

(C) The Executive Director has reasonable cause to conclude, based upon the inherent nature of the activity, that the applicant or any person or persons participating in the proposed activity will, in connection with that activity, cause physical injury to ~~{person}~~ **[persons]** or substantial damage to property; provided, however, that in determining whether such reasonable cause exists the Executive Director shall not consider the content of expression which is proposed or anticipated;

(D) The proposed activity is inconsistent with the purpose for which the facility or area has been established or designated;

(E) The location selected is inappropriate because (1) the nature of the proposed activity or the number of ~~{person}~~ **[persons]** expected in connection with the activity would be likely to damage trees, plants or other vegetation; (2) the activity would unduly disturb adjacent neighborhoods because of the nature of the proposed activity or the number of persons expected to be involved; or (3) other activities have been scheduled in an area or areas near the location proposed by the applicant, or they normally occur in such area or areas, and permitting the proposed activity to occur in the proposed location would unreasonably interfere with park use and enjoyment by participants in such activities;

(F) The applicant fails to obtain necessary approvals, permits, or licenses from other governmental departments or agencies;

(G) The applicant has not complied with the procedural requirements established by Commission resolution for the filing of permit applications;

(H) The applicant fails or refuses to pay a processing fee or a user fee, or both, which the Commission has established by resolution;

(I) The applicant fails or refuses to post a performance bond when required to do so by the Commission;

(J) The applicant fails or refuses to provide insurance when required to do so by the Commission;

(K) The applicant fails or refuses to execute an agreement to reimburse the Commission for any cost incurred by it in restoring damage to the property occasioned by, or arising out of, the permitted activity, and to defend the City against and indemnify and hold the City harmless from, any liability to any person occasioned by, or arising out of, the permitted activity, when

such an agreement is required by the Commission;

(L) The application contains misrepresentations of material fact;

(M) The proposed activity is prohibited by law;

(N) The applicant refuses to comply with conditions reasonably imposed on approval of the permit application by the Executive Director or the Commission in order to insure that public or private property is not damaged and that the comfort, convenience, safety and welfare of the public are not disturbed;

(O) The proposed activity is required to be put out for bid under the ~~{City"s or Port"s retail leasing policy}~~ **[Port"s policies regarding competitive bidding]**.

Whenever a permit application is denied, the Executive Director shall inform the applicant of the reason for the denial and when a change in location would allow approval, shall offer alternative suitable locations.

[Sec.] 6.8 **Petitioning, Leafletting, Picketing, Soliciting**.

(A) No permit may be required to engage in petitioning, leafletting, demonstrating or soliciting so long as engaging in any of these activities, or any combination of these activities, does not involve 50 or more petitioners, leafletters, demonstrators, or solicitors at the same time within an area circumscribed by a 500-foot radius.

(B) It shall be unlawful for any person to engage in petitioning, leafletting, demonstrating or soliciting in such a manner as to substantially obstruct any traffic of pedestrians or vehicles after being warned by a peace officer or a member of the Park Patrol not to do so.

(C) Where the park is a frequent site for the issuance of permits involving large groups of people for events requiring exclusivity, in order to prevent interference with the progress and enjoyment of these events, no person may engage in petitioning, leafletting, demonstrating or soliciting in these parks while an event is in progress for which a permit has been issued by the Commission or Executive Director except in those areas designated as public assembly areas. No person shall be considered in violation of the prohibition contained in this subsection until he or she has been informed by a member of the San Francisco Police Department, a member of the Park Patrol, or a member of the Commission who displays proper identification of such employment that the event is being conducted pursuant to a valid permit or until the permit pursuant to which the event is being conducted has been shown to such person.

[Sec.] 6.9 **Reservation of Buildings**. The procedure for reserving the use of any building in any park shall be established by the Commission and shall be kept on file with the Commission and made available to the public upon request.

[Sec.] 6.10 **Sales Prohibited at Art Shows**. When conducting or participating in an art show in any park, no person shall sell or offer for sale any work of art unless the permit authorizing the art show allows such sales.

[Sec.] 6.11 **Commercial Photography, Filming, Recording**. No person shall engage in commercial photography, filming or recording in any park without first having obtained a permit~~{. The procedure for obtaining such permits shall be established by the Commission and shall be kept on file with the Commission and made available to the public upon request.~~

~~}~~ **[from the Executive Director. Permits for such commercial activities shall be issued by the Executive Director pursuant to the Port"s permit authority set forth Charter Section B3.581.**

Sec.] 6.12 **Permits-Athletic Events**. Athletic areas and structures, such as baseball diamonds, soccer pitches, football fields, and swimming pools may be reserved by obtaining a permit from the Commission.

[Sec.] 6.13 **Permits Requested by Governmental Units**. Any processing or user fee established by the Commission for the use of park property may be waived where the applicant is the United States of America, the State of California or subdivision thereof, an agency or commission of the City and County of San Francisco, or other governmental unit.

[Sec.] 6.14 **Permits-Rights Granted**. Any person possessing a valid permit, which states that an area has been reserved for such person"s use, has the exclusive right to use the area or facility specified in the permit for the time specified. It shall be unlawful for any person to refuse to leave an area or facility which has been reserved by a valid permit when asked to do so by the person ~~{nor}~~ **[or]** party displaying such permit, by a Commission employee, by a police officer, or by a member of the Park Patrol, and no person shall in any manner disturb or interfere with any person or party occupying the area under such a permit, nor with the belongings of such person or party.

[Sec.] 6.15 **Duties of Permittee**. It shall be the duty of every permittee:

(A) To obey all laws and the terms and conditions of the permit;

(B) To clean the area used after the permitted activity is over and to ~~{restor}~~ **[restore]** the area and property used to the same condition as existed prior to the activity; and

(C) To reimburse the Commission for any expenses incurred by it, including the cost of labor, in cleaning and restoring the park or making repairs to property and equipment, which expenses may be occasioned by the permitted activity.

[Sec.] 6.16 **Permits-Failure to Obtain**. It shall be unlawful for any person to conduct or sponsor any activity which requires a permit without first having obtained the appropriate permit and, when requested to do so by a Commission employee, a member of the Park Patrol, or by a police officer, displaying such permit. Furthermore, it shall be unlawful to participate in such an activity with knowledge that it is being conducted without a permit when a permit is required pursuant to this Code.

[Sec.] 6.17 **Procedure for Billing Costs**. Within 30 days of the exercise of any permit, the Executive Director shall determine and transmit to the permittee a bill for all cost above and beyond normal cleaning cost which are or will be incurred by the Commission in cleaning or restoring any park or making repairs to property and equipment, which costs were occasioned by, or arose out of,~~{ or arose out of,}~~ the activity engaged in pursuant to the permit. The permittee shall have 30 days from the transmission of such bill in which to pay or request adjustment of the same. Any request for adjustment shall be transmitted in writing to the

Executive Director, who shall determine whether an adjustment is proper. The permittee shall pay the bill or adjusted bill promptly upon transmission to the permittee of a statement of the determination of the Executive Director with respect to the adjustment. Any request for adjustment shall be deemed waived if not timely or if not transmitted in writing.

[Sec.] 6.18 **Violation of Permit Conditions**. Whenever a permittee or those under the control of the permittee violate any condition contained in the permit, a member of the San Francisco Police Department may revoke the permit. It shall be unlawful for any person to continue to engage in an activity for which a permit was required and issued after the permit has been revoked pursuant to this Section, provided, however, that no person shall be in violation of this Section until notice has been given that the permit has been revoked.

[Sec.] 6.19 **Appeal**. The Commission shall by resolution adopt procedures for the appeal of the denial of a permit application to the Commission or, in those instances when a quorum of the Commission cannot be convened in a timely manner, to the Executive Director. The Commission or the Executive Director shall afford the applicant an opportunity for a hearing and may reverse, affirm or modify in any regard the determination of the Executive Director concerning the denial of a permit application. When the Commission affirms the denial of a permit application such a decision shall be based on one or more of the reasons listed in Section 6.7 of this Code. This duty may not be delegated.

Article 7. ~~{South Beach Park}~~ [Redevelopment Agency Authority]

~~{Sec. 7.1 .Wheeled Equipment Prohibited.}~~ **[Sec. 7.1 Redevelopment Agency Authority. Notwithstanding any other provision of this Code, with respect to South Beach Park, Rincon Park, or any Port park located within the Mission Bay North or Mission Bay South Redevelopment Plan areas, to the extent any such park is controlled by the Redevelopment Agency pursuant to the terms of a lease or other agreement between the Port and the Redevelopment Agency (collectively, a "Redevelopment Agency Park"), the governing body of the Redevelopment Agency of the City and County of San Francisco shall have the exclusive authority to adopt rules and regulations rules for such Redevelopment Agency Park pursuant to Section 2.1 of this Code (subject to the prior approval of the Port"s Executive Director), to issue permits for such Redevelopment Agency Park pursuant to Article 6 of this Code, and to exercise all other authority over the Redevelopment Agency Park which would otherwise be exercised by the Port Commission under this Code, including designating persons to perform all other functions for such Redevelopment Agency Park which would be performed by the Port"s Executive Director for any other park under this Code.]**

~~{7.1}~~ **[Sec. 7.2]** **Wheeled Equipment Prohibited**. No person, other than employees or agents of the Commission, the Redevelopment Agency, or its respective contractors when on duty, shall bring any wheeled conveyances, including but not limited to trucks, cars and skateboards, into South Beach **[Park or Rincon]** Park except when acting pursuant to a permit issued by the Commission or its designee. Notwithstanding the above provisions, **[persons may bring]** wheelchairs, stroller and toys appropriate for preschool

children, such as wagons and tricycles, ~~{may be brought}~~ into South Beach **[Park or Rincon]** Park without a permit. ~~{Bicycles may be walked through the park or locked in designated locations without a permit.}~~ **[In addition, persons may without a permit (1) ride bicycles over and across areas of the waterfront promenade that are adjacent to or within South Beach Park or Rincon Park, (2) walk bicycles through South Beach Park or Rincon Park, or (3) lock bicycles in designated locations.]**

Article 8. Severability

Sec.~~{ 8.1 Severability.~~

~~}~~ 8.1 **Severability**. If any of the provisions of this Code, or the application of such provisions to any person or circumstance, shall be held invalid, the remainder of this code, or the application of such provisions to persons or circumstances other than those to which it is held to be invalid, shall not be affected thereby.

Article 9. Penalties

Sec.~~{ 9.1 Penalties.~~

~~}~~ 9.1 **Penalties**. Unless otherwise specified in this Code, any person violating any section of this Code shall be deemed guilty of a misdemeanor or an infraction. The complaint charging such violation shall specify whether the violation is a misdemeanor or infraction, which decision shall be that of the District Attorney; provided, however, that whenever a person has been arrested and incarcerated based solely on the violation or violations of this Code, he or she shall retain the right at the time of arraignment or plea to object to the offense being made an infraction, in which event the complaint shall be amended to charge the misdemeanor and the case shall proceed on the misdemeanor complaint.

Upon convictions of a violation charged as an infraction, the person so convicted shall be punished for the first offense by a fine of not less than $10 nor more than $50, and for a second and each additional offense by a fine of not less than $20 nor more than $100.

Upon conviction of a violation charged as a misdemeanor, the person so convicted shall be punished by a fine of not more than $500 or by imprisonment in the County Jail for a period of not more than six months, or by both such fine and imprisonment.

Sec.~~{ 10.1 Police Authority.~~

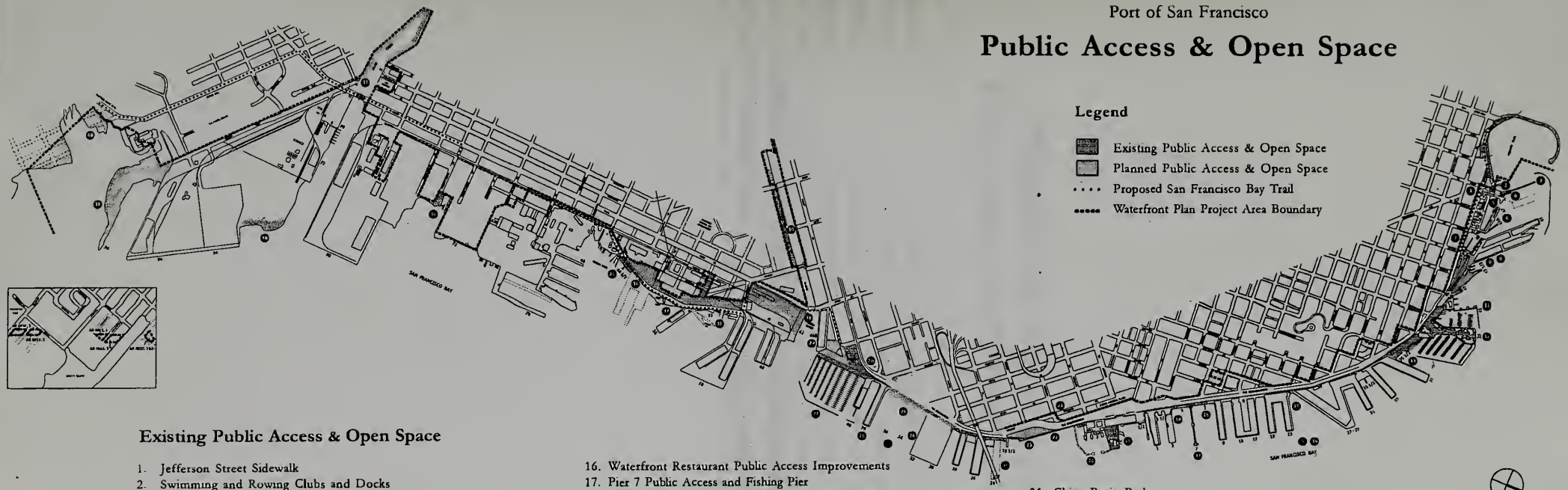
~~}~~ 10.1 **Police Authority.** The Commission shall authorize peace officers or employees of the Commission to carry out the provisions of this ~~{code}~~ **[Code]**.

APPENDIX A

PORT PARKS SUBJECT TO PORT PARK CODE

Port of San Francisco

Public Access & Open Space



Legend

- Existing Public Access & Open Space
- Planned Public Access & Open Space
- Proposed San Francisco Bay Trail
- Waterfront Plan Project Area Boundary

Existing Public Access & Open Space

1. Jefferson Street Sidewalk
2. Swimming and Rowing Clubs and Docks
3. Hyde Street Pier
4. San Francisco Maritime National Historical Park
5. Hyde Street Harbor
6. Pier 47A Public Access
7. Inner Lagoon Walkways
8. Pier 45 East Apron
9. Pampanito Submarine at Pier 45
10. Pier 43 Public Access Areas
11. Pier 41 Public Access Pier
12. Pier 39/Underwater World Public Access Improvements
13. East Wharf Park
14. Intentionally Deleted
15. Pier 23 Public Access Improvements
16. Waterfront Restaurant Public Access Improvements
17. Pier 7 Public Access and Fishing Pier
18. Ferry Boat Santa Rosa Public Access
19. Ferry Building Plaza; Ferry Plaza; Ferry Terminal, Pier 1/2
20. Intentionally Deleted
21. Seawall Lot 347N
22. Herb Caen Way ("Embarcadero Promenade")
23. Rincon Park
24. Jeremiah O'Brien
25. Intentionally Deleted
26. Pier 38 Public Access Improvements
27. South Beach Harbor Public Access Pier
28. South Beach Park
29. Giants Ballpark Public Access
30. China Basin Channel Natural Areas and Mission Creek Harbor Association Improvements
31. China Basin Park
32. Intentionally Deleted
33. Intentionally Deleted
34. Intentionally Deleted
35. Agua Vista Park
36. Warm Water Cove Park
37. Islais Creek
38. Seawall Lot 344 Existing Wetlands
39. Heron's Head Park
40. India Basin Shoreline Park

PERMIT AND RESERVATION REGULATIONS FOR PARKS UNDER PORT COMMISSION JURISDICTION

Adopted by the San Francisco Port Commission by Resolution No. 00-28

on March 28, 2000

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PERMIT AND RESERVATION REGULATIONS FOR PARKS UNDER PORT COMMISSION JURISDICTION

I. GENERAL INFORMATION

A. AUTHORITY. Under the Burton Act and Charter Section B3.581, the Port has the complete authority to manage, regulate and control the harbor of San Francisco and to do all things it deems necessary in connection with the use, conduct, operation, management, maintenance, regulation, improvement and control of the Port property. Pursuant to this authority, the San Francisco Port Commission has adopted a Port Park Code ("Park Code") regulating activities in designated public access areas to protect visitors from safety hazards, prevent damage to the property and facilitate special event coordination. and perform other regulatory functions for certain public park property ("Parks" or "Park"). Sections 6.5 and 6.19 of the Park Code require that regulations be adopted governing the filing and processing of permits to engage in various activities in Parks, and several other sections of the Park Code allow regulations to be set governing other matters.

B. APPLICABILITY. These Permit and Reservation Regulations ("Regulations") apply in all Parks subject to the Park Code. Where a provision of these Regulations applies only to a certain Park or portion of a Park, that limitation is explicitly noted.

C. DEFINITIONS. Capitalized words or phrases will have the meanings set out in parenthesis when they are first used. For purposes hereof, the term "Commission" shall refer to the San Francisco Port Commission, the Executive Director, or their designee.

II. PROCEDURE FOR OBTAINING ALL PERMITS REQUIRED BY THE PARK CODE

A. APPLICATIONS

1. Deadlines for filing.

(a) Except for permits for events with an expected attendance of 500 or more ("Large Events") and permits for the sale of food or distribution of free food, written application for any permit required by the Park Code must be made to the Commission at least fifteen (15) business days in advance so that the Commission will have adequate time to process requests properly, meet with interested parties, and coordinate with other affected entities.

(b) Written applications for permits for Large Events or for the sale or distribution of free food must be made to the Commission at least thirty (30) business days in

advance so that the Commission will have adequate time to prepare for the activity.

(c) The time requirements in this section for advance applications may be waived by the Commission, upon request in writing by the applicant, if the Commission determines that the event or events for which the permit is sought do not reasonably allow an applicant time to file a permit application within the required time or if an unusual event or combination of events renders such requirement an unreasonable restriction on the right of free speech.

2. Contents. Applications must include the following information:

(a) The name, address and telephone number of the applicant;

(b) The name(s) of all sponsoring, participating and/or performing groups;

(c) A description of the activity for which a permit is sought;

(d) The date, starting time, place and the estimated length of time of the event;

(e) The number of persons that are expected to attend and the reasons for anticipating such a number;

(f) For Large Events, an acknowledgment that the granting of the permit is conditioned upon development by the applicant of a transportation management plan detailing measures for minimizing traffic and promoting public transit use, as well as plans for minimizing litter, congestion and noise at the preferred or desired location and the surrounding areas that would be affected by the proposed event;

(g) Where the applicant is an individual, the signature of the applicant, and where the applicant is an entity other than an individual, the signature, name, address and telephone number of the individual executing the application on behalf of the applicant; and

(h) Other relevant information reasonably requested by the Commission.

B. PROCESSING OF APPLICATIONS

1. Time for processing.

(a) Fully completed permit applications for the same desired location will be processed in order of receipt. Revision of an application will not cause an application to lose priority as to the location desired, unless the revision includes a request for a new location.

(b) Fully completed permit applications received less than thirty (30) business days but more than fifteen (15) business days prior to the date of the proposed event will be processed within ten (10) business days. Such applications will be deemed processed if the approval or denial is mailed to the address contained in the permit application or is communicated orally to

the applicant within ten (10) business days after the day it is received. A copy of any written approval or denial of an application will be kept on file by the Commission for at least six (6) months and shall be made available to the applicant upon request.

(c) Fully completed permit applications received thirty (30) business days or more before the date of the proposed activity will be processed as time allows, but in no event will notice of approval or denial be mailed or communicated less than twenty (20) calendar days prior to the date of the proposed activity.

(d) Permit applications received less than fifteen (15) business days in advance will be processed within a reasonable time, provided that the Commission has waived the advance application requirement as set forth in Section II. A. 1 (c) above. At the time that the applicant is notified of such waiver, the Commission will inform the applicant when his or her application is expected to be acted upon.

2. Incomplete applications. An incomplete permit application will be returned to the applicant with an explanation as to why it is incomplete whenever the Commission has insufficient information to enable it to process the application.

3. Notice of denial. Notice of the denial of a permit application will be accompanied by a statement of the grounds upon which the application was denied.

4. Revised applications. If a permit application is revised, the time within which the application must be processed will be computed from the date of the revision.

C. GENERAL CONDITIONS OF PERMITS

1. Basis for conditions on each permit. In order to insure that public enjoyment of the Parks and the public's comfort, convenience, safety and welfare are not disturbed and that public or private property is not damaged, the Commission may impose reasonable conditions on approval of permit applications, including but not limited to, the conditions that the applicant provide debris boxes, chemical toilet units, protective coverings, monitors, transportation management measures and security personnel, and that the applicant ensure that any stage, booth, platform, tent or other erected structure complies with applicable City codes.

2. Publicity. Applicants are hereby advised that any publicity by the applicant before a permit is issued is undertaken at the applicant's own risk.

3. Sound amplification. Applicants are hereby advised that City ordinances regulate the use of amplified sound and require the issuance of sound amplification permits by the Police Department.

4. Planning with other entities. Prior to issuing a permit, the Commission may

consult or require the applicant to consult with the Police Department, Municipal Railway, Fire Department, Health Department, Emergency Ambulance Service, Department of Public Works, Department of City Planning, Bay Conservation and Development Commission, or other relevant public or private entities if any aspect of a permit request requires consent from any such entity. The Commission reserves the right to consult with the Recreation and Park Commission to determine if another park facility in the City is more appropriate to accommodate the proposed event, and, if the alternate park facility is available, to deny a permit.

5. Recycling and parking control. Following any Large Event, the permittee must recycle or cause to be recycled any newspaper, glass or aluminum items generated by the event. The term "recycle" means packaging newspaper, glass and aluminum items separately and making arrangements to have these items delivered to neighborhood recycling centers in the City. In consultation with the Commission, permittees may make other arrangements for the disposal of recyclable items. For Large Events, the Commission may require the applicant to pay an additional fee for the cost of providing parking control for the event.

6. Sales of food or alcohol. The Commission may issue one-day permits for the sale of food products with the approval of the Health Department. All food permits must be filed thirty (30) business days in advance of the event. The Commission may, in its sole discretion, authorize the serving or selling of beer and/or wine under one-day permits so long as the applicant has obtained the necessary approval from the Alcoholic Beverages Commission ("ABC").

7. Health Department and ABC permits. Permittees must secure a proper Health Department Notice to Operate and, if alcohol is involved, a permit from ABC. The ABC permit and the Health Department Notice to Operate must be visibly displayed on each booth or location.

8. Planning meeting. Prior to issuing a permit, the Commission may arrange or require the applicant to arrange a meeting of all public and private entities involved in: (i) any Large Event or (ii) an event which would require special services or permission from the affected public or private entities which cannot be arranged through written or telephone consultation with those entities.

9. Mylar balloons. The sale and use of mylar balloons in Parks are prohibited.

10. Other balloons. All other balloons are allowed, but the permittee must remove them following the event unless the Commission consents to leaving them there. The release of balloons in Parks is prohibited.

11. Fee waiver for nonprofit permittees. The Commission may enter into an agreement with a nonprofit organization seeking to use Parks to waive the applicable use fees in exchange for receiving services that may be provided to the Commission or the City, provided that

the value of the fees waived does not exceed the value of the services rendered.

12. Discrimination prohibited. The Commission will process all permits without discrimination with regard to the race, color, religion, ancestry, national origin, age, sex, political affiliation, sexual orientation, or disability of applicants.

13. Structures. Any permittee requesting to erect a stage, booth, platform, tent or other structure must submit an anchoring plan for such structure(s) before the Commission will allow the permittee to bring its equipment into a Park. The anchoring plan must detail the method to be used to secure such structure(s) in place in a safe and stable condition. No Park benches, light standards, trash receptacles, buildings, trees, shrubs or the like may be used for the purpose of securing any structure(s) unless prior written approval is received from the Commission. The Commission may review the anchoring plan prior to any installation of the structures and reserves the right to require changes.

14. Misrepresentation by permittees

(a) Material misrepresentations of fact in an application, in circumstances where the applicant reasonably knew or should have known that assertions in the application were not true, may be considered by the Commission in determining whether the permit application should be denied or revoked because of the applicant's inability to be responsible for the use of a Park in compliance with the Park Code, the Regulations, any other applicable law and any permit conditions imposed by the Commission.

(b) If the Commission has reason to believe that advertising or publicity for an event for which an application is on file or permit has been issued describes or refers to the event in a manner which indicates that the event is different from that described in the application, the Commission may request the applicant or permittee to submit such advertising or publicity material. The Commission will examine the same for the purpose of determining whether there is reason to conclude that the application inaccurately or incompletely describes the planned event. If it so determines, in cases where the permit has not been granted, the Commission will immediately notify applicant of the discrepancy and schedule a meeting to determine whether the applicant must modify its application. In cases where the application has been granted, the Commission may revise the scope of the permit or revoke it in light of the changed circumstances.

D. FEES AND SECURITY DEPOSITS

1. Permit fees. The Fees charged for an event shall reflect the Commission's costs in preparing for an event, wear and tear on the Park, the income, if any, a permittee intends to earn from the event, the permittee's ability to pay a rental fee, and other factors outlined in the Park Code and these Regulations. The Commission will collect the entire fee from the permittee at the

time a permit is issued.

2. Security deposits. The Commission may require security deposits pursuant to a schedule set by the Commission and revised annually to insure that Parks are restored and cleaned at the conclusion of permitted activities.

3. Additional deposits. For Large Events, the Commission may require an applicant to post a deposit in an amount higher than shown on the security deposit schedule, so long as the amount of the deposit is reasonably related to the anticipated costs of restoring or cleaning the park property used in connection with the event.

4. Form of deposit. The security deposit will be in the form of a cashiers check payable to the Commission or other entity designated by the Commission, and must be received no later than the time the permit is issued. The security deposit will be returned after the event as soon as it is determined that every area of a Park used in connection with the event has been cleaned and restored to the same or equivalent condition that existed immediately prior to the permitted event. In no case will the security deposit be returned unless the Park is returned to its prior condition or the permittee has paid the cost of cleaning and restoring the area used in connection with the event.

5. Waiver of security deposit. The Commission may waive or decrease the security deposit normally required if an applicant has a history of using Commission property and has consistently left the property used in good condition and no circumstances exist which indicate that the applicant might fail to restore the Park after the proposed event.

6. Exercise of Constitutional rights. When an applicant for a permit to perform an activity which is protected by the First Amendment to the U.S. or California Constitution and for which a security deposit must be posted produces evidence that providing a security deposit would be impossible or so financially burdensome that it would preclude the applicant from using the Park for the proposed activity, the Commission may accept in its place appropriate written assurances that all necessary measures will be undertaken by applicant to protect the Park against damage, but only if the Commission determines that the measures proposed by the applicant will be performed and will adequately protect the Park.

7. Applicants who have damaged parks. If an applicant has used a Park in the past and has caused damage or injury to property or failed to restore or clean the Park at the conclusion of its activity, the Commission may: (i) deny the permit or (ii) require the applicant to post a security deposit in an amount greater than normally required, so long as the increased amount is reasonably related to the anticipated costs of restoring or cleaning the Park.

8. Costs of repairs and liquidated damages. In addition to assuming the payment of the direct costs associated with restoring and cleaning a Park following an event, a

permittee must acknowledge and agree in writing that some violations of the Park Code or Regulations may result in damages which are extremely difficult to estimate. Such damages include, but are not limited to: the public's lost use of a Park or lost enjoyment of the flora, fauna or vegetation while the Park is being cleaned or restored; increased administrative costs resulting from patrolling the Park; general impairment of the Park environment as a public recreational source; or the loss of future concession revenues from individuals who are discouraged from using the Park as a result of the applicant's violations. Accordingly, in the event a permittee fails to substantially comply with the Park Code, Regulations, or any other permit conditions, permittee shall be liable for liquidated damages in the amount of $250 or twenty-five percent (25%) of the total security deposit, whichever is greater. This liability is in addition to any direct costs associated with cleaning and restoring the Park, for which the permittee is also liable. Any costs for damages assessed by the Commission which cannot be recovered from the security deposit are payable to the Commission upon demand. Permittee has the right to appeal the assessment of liquidated damages to the Commission's Executive Director.

9. Remedies for violations of applicable law, Regulations, and permit conditions. If the permittee fails to comply with the Park Code, the Regulations or any other permit conditions, and the Commission reasonably believes there are risks of serious damage to property or a substantial interference with the use and enjoyment of the Park by other persons, the Commission may issue a warning that any further violations may result in a revision of the conditions of the permit or an order to leave the Park. In addition, the Commission may take any actions reasonably required to protect the Park or the health and safety of the public, and the permittee must reimburse the Commission for its costs incurred in doing so. Following the event, the Commission may issue an order denying the group or organization a permit to use a Park for a period not to exceed one year. However, groups or organizations which only sponsor an annual event will be denied a permit through the following calendar year. In determining the length of time a group or organization will be excluded from the Parks, the Commission will consider only the nature, extent and duration of the violation(s).

E. PERMIT REQUIREMENTS

1. Form of Permit. All permittee's must enter into a written permit with the Commission for use of any Park, in a form approved by the City Attorney, including applicable insurance requirements and indemnifications. A copy of the approved permit form is attached hereto as Exhibit 1.

2. Waiver. The insurance coverage requirements set forth in the permit form may be waived for applicants who propose to engage in an activity protected by the First Amendment to the U.S. or California Constitution when the applicant produces evidence that

complying with those provisions is impossible or so financially burdensome that it would preclude the applicant from using a Park for the proposed activity. However, in no event will the requirement for food products liability coverage be waived when the permittee is selling or distributing food to the general public.

F. REQUIREMENTS FOR ADDITIONAL AUTHORIZATION FOR SPECIFIC ACTIVITIES

1. Sign posting. No signs may be posted on any Park property without written approval of the Commission.

2. Athletic instruction for compensation. Applications pursuant to Park Code Section 2.6 for permits to provide athletic instruction for compensation must be made in writing to the Commission thirty (30) business days before the instruction occurs.

3. Peddling goods, wares or merchandise. Applications pursuant to Park Code Section 2.8 for permits to peddle or vend goods, wares or merchandise must be made to the Commission at least ten (10) business days before such activities take place.

III. LIMITS ON USES OF PARK FACILITIES

A. GENERAL RULES

1. Uses must be consistent with purpose of facilities. Any portions of Parks serving a specific function may not be the site of any event which, in the reasonable judgment of the Commission, would conflict with what is intended as that portion's primary functions.

2. Multiple day permits. Multiple day events may be considered for permits based on the nature of the event, the proposed location, the anticipated attendance and any other facts and circumstances that relate to any potential adverse impact on the Parks, the neighborhood or the public.

B. SPECIFIC RESTRICTED ACTIVITIES

1. Camping. No permits for camping or housing accommodations may be granted.

2. Sleeping overnight. No permits for sleeping overnight may be granted.

3. Distribution of free food. Pursuant to Park Code Section 6.3(J), a permit is required to provide free food to persons in Parks. The Commission has established these provisions to govern such permits:

(a) Except as provided in Section III. 7. (b), without a permit from the Commission as set forth below, no person may distribute, provide or sell food to the general public

in a Park.

(i) The Commission may approve a permit application for the distribution, provision or sale of food to the general public when the proposed activity takes place in conjunction with an indoor facility adjacent to a Park or is in connection with a permitted recreational activity in a Park.

(ii) Applications for the distribution, provision or sale of food not subject to subsection (a) above may be approved only with the consent of the Executive Director of the Commission.

(b) A permit to provide food to persons in a Park is not required when a person participating in a picnic or social gathering of 25 or fewer persons provides food to others who are also participating in that picnic or social gathering. This exception shall not be construed to allow any person to use a Park, without a permit, as a mobile or stationary kitchen, eating establishment, restaurant or similar purpose to provide or sell food to the general public.

IV. APPEAL PROCEDURE

1. Written request for appeal. Any applicant or permittee may appeal the denial of a permit application, revocation of a permit or subsequent assessment of liquidated damages, by mailing or delivering a written request for an informal hearing with the Executive Director of the Commission. The request must state succinctly the grounds upon which it is asserted that the determination of the Commission should be modified or reversed.

2. Informal hearing. The Executive Director will schedule an informal hearing with the applicant or permittee to be held within fifteen (15) calendar days of Executive Director's receipt of the written request.

3. Scope of review. The Executive Director will afford the applicant or permittee an opportunity for an informal hearing and may reverse, affirm or modify in any regard the initial determination. When the Executive Director affirms the denial of a permit application or revocation of a permit, such a decision must be based on one or more of the reasons listed in Section 7.07 of the Park Code.

4. Written reasons for decision. The Executive Director will give the applicant or permittee written notice of his or her decision within three (3) business days after the hearing. Such notice will be mailed to the applicant or permittee at the address contained in the request for a hearing or, if none, in the permit application. The Commission will keep a copy of the notice on file to be made available to the applicant upon request. When the Executive Director issues a ruling adverse to the applicant or permittee, the Executive Director must include within the written notice to the applicant or permittee the reasons for the decision and specific findings of fact on which the

decision is based.

V. REVIEW AND MODIFICATION OF REGULATIONS

The City Attorney and appropriate Commission program staff will conduct an annual review of these Regulations and ascertain whether they maintain the proper balance between the recreational, constitutional and property interests of the public heretofore mentioned, as well as the Commission's substantial interests in preserving the Parks and limiting excessive noise, congestion and police problems. In addition to the annual review, the City Attorney may make recommendations for changes in these Regulations from time to time as he or she deems necessary.

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SAN FRANCISCO PORT COMMISSION
FERRY BUILDING
SAN FRANCISCO, CA 94111

LICENSE TO USE PROPERTY
BASIC LICENSE INFORMATION

Licensee:

Licensee is: Corporation ❑ Individual ❑ Partnership ❑
Other_____

Licensee address:

Activity:

Contact:
Name **Phone No.** **Fax No.**

Activity Date(s):

Location:

Fees (Section 3): $
Security Deposit (Section 5):
Utilities & Services (Section 9.a, 9.b):
Maintenance and Repairs (Section 9.c):
Cure Period (Section 13a.(2):

Mineral Reservation (Section 21): California Grid System, Zone 3, Beginning at a point where X equals 1,454,000 and Y equals 478,000 extending 2,500 feet south, thence 1,500 feet east, thence 2,500 feet north and thence 1,500 feet west, ending at said point of beginning.

Address for Notices to Licensee (Section 12):

Address for Notices to Port:
Port of San Francisco
Room 3100 Ferry Building
San Francisco, CA 94111
Attn: Director, Real Estate Division

This License, dated for reference purposes only as of_____, is by and between the City and County of San Francisco, a municipal corporation ("City"), operating by and through the San Francisco Port Commission ("Port"), and Licensee, who agree as follows:

1. Basic License Information. The Basic License Information that appears on the preceding pages of this License is hereby incorporated by reference into this License and shall become part of the terms and conditions hereof.

2. Grant of License. The SAN FRANCISCO PORT COMMISSION, in consideration of the stated conditions and agreements, hereby grants permission to Licensee to carry on the above-stated activity in the time, place and manner set forth herein. The parties acknowledge that the relationship created hereby is that of a license granting Licensee a privilege to perform the activities permitted hereunder upon Port property. The parties further acknowledge that this License is revocable by Port pursuant to the terms hereof, and does not convey to Licensee an exclusive right to possession of the License Area.

3. Fees. Licensee shall pay the Fees set forth in the Basic License Information on or before the first day of the Activity Date set forth in the Basic License Information, and thereafter if applicable, upon the first day of each month during the term of this License.

4. Late Charges. Licensee acknowledges that late payment by Licensee to Port of Fees due hereunder will cause Port increased costs not contemplated by this License, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges. Accordingly, a fee equivalent to one and one-half percent (1-1/2%) of all Fees, or any portion thereof, which is due and unpaid for more than thirty (30) days will be paid by Licensee for each month that such Fees, or any portion thereof, remain due and unpaid, plus reasonable attorneys' fees incurred by Port by reason of Licensee's failure to pay Fees when due under this License. Late Charges shall be computed from the date on which such Fee(s) first became due. The parties agree that such Late Charges represent a fair and reasonable estimate of the cost which Port will incur by reason of any late payment by Licensee.

5. Security Deposit. Licensee shall pay to Port on or before the first Activity Date hereof, in addition to the advance payment of the Fees, the security deposit, in cash, in the sum specified in the Basic License Information, as security for the faithful performance by Licensee of all terms, covenants and conditions of this License. Licensee agrees that Port may (but shall not be required to) apply the security deposit in whole or in part to (a) pay any sum due to Port under this License; (b) compensate Port for any damage to the License Area caused by Licensee; or (c) cure any default by Licensee. If Port uses any portion of the security deposit to cure any default by Licensee hereunder, Licensee shall immediately replenish the security deposit to the original amount. Port's obligation with respect to the security deposit is solely that of debtor and not trustee. Licensee shall not be entitled to any interest on such deposit. If Licensee is not in default at the termination of this License, Port shall return the unused balance of the security deposit to Licensee after Licensee vacates the License Area. The amount of the security deposit shall in no way limit Licensee's obligations under this License, and nothing contained in this section shall in any way diminish or be construed as waiving any of Port's other remedies set forth in this License or provided by law or equity.

6. **Activity**. If the Basic License Information limits the times and location of the activities permitted hereunder, then Licensee shall not conduct the activity at times and locations other than at the times and locations hereinabove specified unless express permission is granted.

7. **Use**. Licensee shall not use Port property in any manner that will constitute waste, nuisance or unreasonable annoyance to Port, its Licensees or the owners or occupants of adjacent properties. Licensee's operations hereunder shall not interfere with Port's use of its property. Operations hereunder must not obstruct traffic. Persons subject to this License must comply with the directions of the San Francisco Police Department and Fire Department in connection therewith.

8. **Compliance with Laws and Regulations**. Licensee, at Licensee's sole cost and expense, promptly shall comply with all laws, statutes, ordinances, resolutions, regulations, judicial decisions, proclamations, orders, decrees or policies of any municipal, county, state or federal government or the departments, courts, commissions, boards and officers thereof, or other governmental or regulatory authority with jurisdiction over the Licensee and the License Area or any portion thereof, including without limitation, the Port (collectively, "Laws") relating to or affecting the condition, use or occupancy of the License Area in effect either at the time of execution of this License or which may hereafter be in effect at any time during the term hereof, whether or not the same are now contemplated by the parties.

9. **Utilities, Services, Maintenance and Repairs**.

a. Utilities. Licensee shall make arrangements and shall pay all charges for all utilities to be furnished on, in or to the Premise or to be used by Licensee, including, without limitation, gas, electrical, water, sewer and telecommunication services. Licensee shall pay all charges for said utilities, including charges for the connection and installation of the utilities.

b. Services. Licensee shall make arrangements and shall pay all charges for all services to be furnished on, in or to the License Area or to be used by Licensee, including, without limitation, garbage and trash collection, janitorial service and extermination service.

c. Maintenance and Repairs. Except as otherwise provided in the Basic License Information, Licensee shall at all times during the term of this License, and at its sole cost and expense, maintain and repair in good and working order, condition and repair the License Area and all improvements and alterations thereon. Port shall not be obligated to make any repairs, replacement or renewals of any kind, nature or description whatsoever to the License Area nor to any improvements or alterations now or hereafter located thereon. In the event that Licensee, its agents or invitees cause any damage (excepting ordinary wear and tear) to the License Area, Port may repair the same at Licensee's expense and Licensee shall immediately reimburse Port therefor.

10. **Taxes and Assessments**. Licensee agrees to pay to the proper authority any and all taxes, assessments and similar charges on the License Area in effect at the time this License is entered into, or which become effective thereafter, including all taxes levied or assessed upon the possession, use, or occupancy, as distinguished from the ownership to the License Area. Licensee, on behalf of itself and any permitted successors and assigns, recognizes and understands that this License may create a possessory interest subject to property taxation and that Licensee, and any permitted successor or assign may be subject to the payment of such taxes.

Licensee, on behalf of itself and any permitted successors and assigns, further recognizes and understands that any assignment permitted hereunder and any exercise of any option to renew or extend this License may constitute a change in ownership for purposes of property taxation and therefore may result in a revaluation of any possessory interest created hereunder. Licensee shall report any assignment or other transfer of any interest in this License or any renewal or extension hereof to the County Assessor within 60 days after such assignment transaction or renewal or extension. Licensee further agrees to provide such other information as may be requested by the City or Port to enable the City or Port to comply with any reporting requirements under applicable law with respect to possessory interest.

11. Insurance.

a. Licensee shall maintain throughout the term of this License, at Licensee's expense, insurance as follows:

(1) Workers' Compensation Insurance, including Employers' liability with limits not less than $1,000,000 each accident;

(2) Comprehensive or Commercial General Liability Insurance with limits not less than $1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including coverages for Contractual Liability, Personal Injury, Advertising Liability, Liquor Liability, Independent Contractors, Explosion, Collapse and Underground (XCU), Broadform Property Damage, Sudden and Accidental Pollution, Products Liability and Completed Operations;

(3) Comprehensive or Business Automobile Liability Insurance with limits not less than $1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including coverages for owned, non-owned and hired automobiles, as applicable.

b. Should any of the required insurance be provided under a claims-made form, Licensee shall maintain such coverage continuously throughout the term of this License, and, without lapse, for one year beyond the License expiration, to the effect that, should occurrences during the License term give rise to claims made after expiration of the License, such claims shall be covered by such claims-made policies.

c. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit shall be not less than double the occurrence limits specified above.

d. Liability policies shall be endorsed to name as additional insureds the City and County of San Francisco, the San Francisco Port Commission, and their officers, directors, employees and agents.

e. All insurance policies shall be endorsed to provide thirty (30) days prior written notice of cancellation, non-renewal or reduction in coverage or limits to Port at the address for Notices specified in the Basic License Information.

f. All insurance policies shall be endorsed to provide that such insurance is primary to any other insurance available to the additional insureds with respect to claims covered under the policy and that insurance applies separately to each insured against whom claim is made or suit is brought, but the inclusion of more than one insured shall not operate to increase the insurer's limit of liability.

g. Before commencement of activities under this License, certificates of insurance, in form and with insurers acceptable to City, shall be furnished to City promptly upon request, along with complete copies of policies.

h. Waiver of Subrogation Rights. The parties release each other, and their respective authorized representatives, from any claims for damage to the License Area or to the fixtures, personal property, improvements or alterations of either Port or Licensee in or on the License Area which are caused by or result from risks insured against under any property insurance policies carried by the parties and in force at the time of any such damage, to the extent such claims for damage are paid by such policies. Each party shall cause each property insurance policy obtained by it to provide that the insurance company waives all right of recovery by way of subrogation against the other party in connection with any damage covered by any policy.

12. Notices. All notices, demands, consents or approvals which are or may be required to be given by either party to the other under this License shall be in writing and shall be deemed to have been fully given when delivered in person to such representatives of Port and Licensee as shall from time to time be designated by the parties for the receipt of notices, or when deposited in the United States mail, postage prepaid, and addressed, to Port or Licensee at the addresses designated in the Basic License Information, or such other address with respect to either party may from time to time designate by notice to the other given pursuant to the provisions of this Paragraph.

13. Default by Licensee.

a. Event of Default. The occurrence of any one or more of the following events shall constitute a default by Licensee:

(1) Failure by Licensee to pay when due any Fees and/or all other charges due hereunder; or

(2) Failure to perform any other provisions of this License, if the failure to perform is not cured within the Cure Period set forth in the Basic License Information after notice has been given by Port to Licensee. If the default cannot reasonably be cured within the Cure Period, Licensee shall not be in default of this License if Licensee commences to cure the default within the Cure Period, and diligently and in good faith continues to cure the default.

b. Port's Remedies. Upon default by Licensee, Port shall, without further notice or demand of any kind to Licensee or to any other person, and in addition to any other remedy Port may have at law or in equity, have the ability to terminate this License and Licensee's right to use the License Area.

14. Indemnity and Exculpation.

a. Indemnity. Licensee shall indemnify and hold Port, City, and their agents, officers, directors, contractors and employees (collectively, "Agents") harmless from, and, if requested, shall defend them against any and all claims, direct or vicarious liability, damage, injury or loss arising directly or indirectly out of: (a) any injury to or death of any person, including employees of Licensee, or damage to or destruction of any property occurring in, on or about the License Area, or any part thereof, from any cause whatsoever, (b) any default by Licensee in the observance or performance of any of the terms, covenants or conditions of this License, (c) the use, occupancy or condition of the License Area or the activities therein by Licensee, its agents, or clients, customers, invitees, guests, members, licensees, and assignees (collectively,

"Invitees") or (d) any release or discharge, or threatened release or discharge, of any substance, waste or material which now or in the future is determined by any state, federal, or local governmental authority to be capable of posing a present or potential risk of injury to health, safety, the environment or property (collectively, "Hazardous Material") caused or allowed by Licensee in, under, on or about the License Area, or into the environment. This indemnity shall be enforceable regardless of the negligence of Port or City, and regardless of whether liability without fault is imposed or sought to be imposed on Port or City. This indemnity shall be enforceable except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on, or validly retroactive to, the date of this License. This indemnity includes all such loss, damage, injury, liability or claims as described above, loss predicated in whole or in part, upon active or passive negligence of Port, City or their Agents. This indemnity shall exclude claims, liability, damage or loss resulting solely and exclusively from the wilful misconduct of Port or City which is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on, Licensee, its agents or Invitees.

In addition to Licensee's obligation to indemnify Port and City, Licensee specifically acknowledges and agrees that it has an immediate and independent obligation to defend Port and City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent. Licensee's obligation to defend shall arise at the time such claim is tendered to Licensee by Port and/or City and shall continue at all times thereafter.

The foregoing indemnity obligation of Licensee shall include without limitation, indemnification from all loss and liability, including attorney's fees, court costs and all other litigation expenses. This indemnification by Licensee shall begin from the first notice that any claim or demand is or may be made. The provisions of this section shall survive the termination of this License with respect to any damage, destruction, injury or death occurring prior to such termination.

b. Exculpation. Licensee, as a material part of the consideration to be rendered to Port, hereby waives any and all claims against Port, City and their Agents, and agrees to hold Port, City and their Agents harmless from any claims for damages to goods, wares, goodwill, merchandise, equipment, business opportunities and persons in, upon or about said License Area for any cause arising at any time, including without limitation all claims arising from the joint or concurrent negligence of Port or City or their Agents, but excluding any intentionally harmful acts committed solely by Port or City.

15. Hazardous Materials.

a. Requirements for Handling. Neither Licensee nor its Agents or Invitees, shall use, generate, process, produce, package, treat, store, emit, discharge or dispose (collectively, "Handle") in, on or about the License Area any Hazardous Materials without the prior written consent of Port, which consent shall not be unreasonably withheld so long as Licensee demonstrates to Port's reasonable satisfaction that such Hazardous Material is necessary to Licensee's business, will be Handled in a manner which strictly complies with all Laws and will not materially increase the risk of fire or other casualty to the License Area. Notwithstanding the foregoing, Licensee may Handle on the License Area janitorial or office supplies or materials in such limited amounts as are customarily used for general office and janitorial purposes so long as such Handling is at all times in full compliance with all Laws.

b. Licensee Responsibility. Subject to the restrictions set forth in Section 15.b above,

Licensee shall Handle all Hazardous Materials discovered on the License Area during the Term of this License or introduced on the License Area by Licensee, its Agents or Invitees, in compliance with all Laws. Licensee shall not be responsible for the safe Handling of Hazardous Materials introduced on the License Area during the term of this License by City, Port or their Agents. Licensee shall protect its employees and the general public in accordance with all Laws. Port may from time to time request, and Licensee shall be obligated to provide, information reasonably adequate for Port to determine that any and all Hazardous Materials are being Handled in a manner which complies with all Laws. Port shall have the right to inspect the License Area for Hazardous Materials at reasonable times, pursuant to its rights of entry provided for hereunder.

c. Requirement to Remove. Prior to termination of this License, Licensee, at its sole cost and expense, shall remove any and all Hazardous Materials introduced in, on, under or about the License Area by Licensee, its Agents or Invitees. Further, Licensee, at its sole cost and expense, shall remove any Hazardous Material discovered on the License Area during the term of this License which is required to be removed by any governmental agency, including Port; provided however, that Licensee shall not be obligated to remove any Hazardous Material introduced onto the License Area during the term of this License by the City, Port or their Agents.

16. Port's Entry on License Area.

a. Entry for Inspection. Port and its authorized Agents shall have the right to enter the License Area without notice at any time during normal business hours of generally recognized business days, provided that Licensee or Licensee's Agents are present on the License Area, for the purpose of inspecting the License Area to determine whether the License Area are in good condition and whether Licensee is complying with its obligations under this License, and to perform any necessary maintenance, repairs or restoration to the License Area, or to perform any services which Port has the right or obligation to perform.

b. Emergency Entry. Port may enter the License Area at any time, without notice, in the event of an emergency. Port shall have the right to use any and all means which Port may deem proper in such an emergency in order to obtain entry to the License Area. Entry to the License Area by any of said means, or otherwise, shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of the License Area, or an eviction of Licensee from the License Area or any portion of them.

c. No Liability. Port shall not be liable in any manner, and Licensee hereby waives any claim for damages, for any inconvenience, disturbance, loss of business, nuisance, or other damage, including without limitation any abatement or reduction in License fees due hereunder, arising out of Port's entry onto the License Area as provided in this Section 16, except damage resulting solely from the active negligence or willful misconduct of Port or its authorized representatives.

d. Non-Disturbance. Port shall use its best efforts to conduct its activities on the License Area as allowed in this section, in a manner which, to the extent reasonably practicable, will cause the least possible inconvenience, annoyance or disturbance to Licensee.

17. Improvements and Alterations.

a. Licensee shall not make, nor suffer to be made, alterations or improvements to the License Area (including the installation of any trade fixtures affixed to the License Area or

whose removal will cause injury to the License Area) without the prior written consent of Port. Without limiting the foregoing, Licensee shall not make, nor cause or suffer to be made, any alterations or improvements to the License Area until Licensee shall have procured and paid for all regulatory approvals required to be obtained for such alterations and improvements, including, but not limited to, any building or similar permits required by Port in the exercise of its jurisdiction with respect to the License Area.

b. Improvements Part of Realty. All alterations or improvements to the License Area made by or on behalf of Licensee which may not be removed without substantial injury to the License Area shall become part of the realty immediately upon completion, shall be owned by Port and shall, at the end of the term hereof, remain in the License Area without compensation to Licensee, unless Port first waives its right to the alterations or improvements in writing. Notwithstanding the foregoing, Port at its option, may require Licensee to remove any alterations and improvements at Licensee's sole expense regardless of whether title has or has not vested in Port, and regardless of whether consent was, or was not given. Licensee shall repair any damage occasioned by such removal at Licensee's sole cost and expense.

18. Suitability; Acceptance. Licensee acknowledges that Port has made no representations or warranties concerning the License Area, including without limitation, the seismological condition thereof. By taking possession of the License Area, Licensee shall be deemed to have inspected the License Area and accepted the License Area in an "As-Is" condition and as being suitable for the conduct of Licensee's activity thereon.

19. Surrender. Upon termination of this License, Licensee shall surrender to Port the License Area and all improvements thereon in good condition (except for ordinary wear and tear) except for improvements and alterations which Licensee has the right to remove or is obligated to remove under the provisions of this License. On or before the termination date hereof, Licensee shall remove all of its personal property and shall perform all restoration made necessary by the removal of any improvements, alterations or Licensee's personal property.

Port may elect to retain or dispose of any improvements or Licensee's personal property which Licensee does not remove from the License Area as allowed or required by this License by giving at least ten (10) days' prior written notice of such election to Licensee. Licensee waives all claims against Port for any damage to Licensee resulting from Port's retention or disposition of any improvements, alterations or Licensee's personal property. Licensee shall be liable to Port for all costs incurred by Port for storing, removing or disposing of any improvements, alterations or Licensee's personal property.

If Licensee fails to surrender the License Area as required by this section, Licensee shall hold Port harmless from all damages resulting from Licensee's failure to surrender the License Area, including, but not limited to, claims made by a succeeding licensee or Licensee resulting from Licensee's failure to surrender the License Area

20. Attorney's Fees.

a. Litigation Expenses. If either party hereto brings an action or proceeding (including any cross-complaint or counterclaim) against the other party by reason of a default, or otherwise arising out of this License, the prevailing party in such action or proceeding shall be entitled to recover from the other party its costs and expenses of suit, including but not limited to, reasonable attorneys' fees, which fees shall be payable whether or not such action is prosecuted to judgment. "Prevailing party" within the meaning of this section shall include, without limitation, a party who

substantially obtains or defeats, as the case may be, the relief sought in the action, whether by compromise, settlement, judgment or the abandonment by the other party of its claim or defense.

b. Appeals. Attorneys' fees under this section shall include attorneys' fees and all other reasonable costs and expenses incurred in connection with any appeal.

c. City Attorney. For purposes of this License, reasonable fees of attorneys of the City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with an equivalent number of years of professional experience (calculated by reference to earliest year of admission to the Bar of any State) who practice in San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney.

21. Mineral Reservation. The State of California, pursuant to Section 2 of Chapter 1333 of the Statutes of 1968, as amended, has reserved all subsurface mineral deposits, including oil and gas deposits, on or underlying the License Area. In accordance with the provisions of said Statutes, Port and Licensee shall and hereby do grant to the State of California the right to explore, drill for and extract said subsurface minerals, including oil and gas deposits, from the Mineral Reservation area located by the California Grid System as more particularly described in the Basic License Information.

22. Time is of the Essence. Time is of the essence as to each and every provision of this License.

23. City Requirements.

(a) Non-Discrimination.

Non Discrimination in City Contracts and Benefits Ordinance.

(a) Covenant Not to Discriminate. In the performance of this License, Licensee covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with Licensee, in any of Licensee's operations within the United States or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Licensee.

(b) SubLicenses and Other Subcontracts. Licensee shall include in all SubLicenses and other subcontracts relating to the Premises a non-discrimination clause applicable to such SubLicensee or other subcontractor in substantially the form of subsection (a) above. In addition, Licensee shall incorporate by reference in all SubLicenses and other subcontracts the provisions of Sections 12B.2(a), 12B.2(c-k) and 12C.3 of the San Francisco Administrative Code and shall require all SubLicensees and other subcontractors to comply such provisions. Licensee's failure to comply with the obligations in this subsection shall constitute a material breach of this License.

(c) Non-Discrimination in Benefits. Licensee does not as of the date of this License and will not during the Term, in any of its operations within the United States, discriminate in the provision of benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12.2(b) of the San Francisco Administrative Code.

(d) Condition to License. As a condition to the effectiveness of this License, Licensee shall execute and deliver to Port the "Nondiscrimination in contracts and Benefits" form approved by the San Francisco Human Rights Commission.

(e) Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the License of City property are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Licensee shall comply fully with and be bound by all of the provisions that apply to this License under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Licensee understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of $50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this License may be assessed against Licensee and/or deducted from any payments due Licensee.

b. MacBride Principles-Northern Ireland. City urges companies doing business in Northern Ireland to move towards resolving employment inequities and encourages such companies to abide by the MacBride Principles. City urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

c. Tropical Hardwood Ban. City urges Licensee not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood product.

d. Tobacco Products Advertising Ban. Licensee acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on any real property owned by or under the control of the City, including the License Area. This prohibition includes the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This prohibition does not apply to any advertisement sponsored by a state, local or nonprofit entity designed to communicate the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.

e. Pesticide Prohibition. Licensee shall comply with the provisions of Section 39.9 of Chapter 39 of the San Francisco Administrative Code (the "Pesticide Ordinance") which (i) prohibit the use of certain pesticides on City property, (ii) require the posting of certain notices and the maintenance of certain records regarding pesticide usage and (iii) require Licensee to submit to Landlord an integrated pest management ("IPM") plan that (A) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Licensee may need to apply to the Premises during the Term of this License, (B) describes the steps Licensee will take to meet the City's IPM Policy described in section 39.1 of the Pesticide Ordinance and (C) identifies, by name, title, address and telephone number, an individual to act as the Licensee's primary IPM contact person with the City. In addition, Licensee shall comply with the requirements of Sections 39.4(a) and 39.4(b) of the Pesticide Ordinance as of January 1, 1999 and January 1, 2000, respectively.

Through Landlord, Licensee may seek a determination from the City's Commission on the Environment that Licensee is exempt from complying with certain portions of the Pesticide Ordinance with respect to this License, as provided in Section 39.8 of the Pesticide Ordinance. Landlord shall reasonably cooperate with Licensee if Licensee seeks in good faith an exemption under the Pesticide Ordinance, provided that Landlord shall have no obligation to make expenditures or incur expenses other than administrative expenses

24. **Miscellaneous Provisions**.

a. California Law. This License shall be construed and interpreted in accordance with the Laws of the State of California and City's Charter.

b. Entire Agreement. This License contains all of the representations and the entire agreement between the parties with respect to the subject matter of this agreement. Any prior correspondence, memoranda, agreements, warranties, or written or oral representations relating to such subject matter are superseded in total by this License. No prior drafts of this License or changes from those drafts to the executed version of this License shall be introduced as evidence in any litigation or other dispute resolution proceeding by any party or other person, and no court or other body should consider those drafts in interpreting this License.

c. Amendments. No amendment of this License or any part thereof shall be valid unless it is in writing and signed by all of the parties hereto.

d. Severability. Except as is otherwise specifically provided for in this License, invalidation of any provision of this License, or of its application to any person, by judgment or court order, shall not affect any other provision of this License or its application to any other person or circumstance, and the remaining portions of this License shall continue in full force and effect, unless enforcement of this License as invalidated would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the purposes of this License.

e. No Party Drafter; Captions. The provisions of this License shall be construed as a whole according to their common meaning and not strictly for or against any party in order to achieve the objectives and purposes of the parties. Any caption preceding the text of any section, paragraph or subsection or in the table of contents is included only for convenience of reference and shall be disregarded in the construction and interpretation of this License.

f. Singular, Plural, Gender. Whenever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neuter genders, and vice versa.

g. Successors. The terms, covenants, agreements and conditions set forth in this License shall bind and inure to the benefit of Port and Licensee and, except as otherwise provided herein, their personal representatives and successors and assigns.

h. Counterparts. For convenience, the signatures of the parties to this License may be executed and acknowledged on separate pages which, when attached to this License, shall constitute this as one complete License. This License may be executed in any number of counterparts each of which shall be deemed to be an original and all of which shall constitute one and the same License.

i. Waiver. No failure by Port to insist upon the strict performance of any obligation of Licensee under this License or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues, and no acceptance of full or partial License fees during the continuance of any such breach shall constitute a waiver of such breach or of Port's rights to demand strict compliance with such term, covenant or condition. Port's consent to or approval of any act by Licensee requiring Port's consent or approval shall not be deemed to waive or render unnecessary Port's consent to or approval of any subsequent act by Licensee. Any waiver by Port of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this License.

j. Authority. Each of the persons signing this License on behalf of the Licensee does

hereby covenant and warrant that Licensee has full right and authority to enter into this License, and that each and all of the persons signing on behalf of the Licensee are authorized to do so.

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///

IN WITNESS WHEREOF, PORT and Licensee execute this License at San Francisco, California, as of the last date set forth below

LICENSEE

By_____
By_____

Its_____
Its_____

Date:_____
Date:_____

PORT

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, operating by and through the SAN FRANCISCO PORT COMMISSION

By _____

Director, Real Estate Division

Date:_____

APPROVED AS TO FORM:
Louise H. Renne, City Attorney

By_____

Date:_____

License Prepared by: _____, Property Manager_____(initial)

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SAN FRANCISCO
PORT COMMISSION

MARCH 28, 2000
MINUTES OF THE REGULAR MEETING

DOCUMENTS DEPT.

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PUBLIC LIBRARY

MEMBERS, PORT COMMISSION

HON. KIMBERLY BRANDON, PRESIDENT
HON. BRIAN McWILLIAMS, VICE PRESIDENT
HON. DENISE McCARTHY
HON. MICHAEL HARDEMAN
HON. PIUS LEE

DOUGLAS F. WONG, EXECUTIVE DIRECTOR

CITY & COUNTY OF SAN FRANCISCO
PORT COMMISSION

MINUTES OF THE REGULAR MEETING
TUESDAY, MARCH 28, 2000

1. **ROLL CALL**

Commission President Kimberly Brandon called the meeting to order at 4:03 p.m. The following Commissioners were present: Kimberly Brandon, Brian McWilliams, Denise McCarthy, Michael Hardeman and Pius Lee.

2. **APPROVAL OF MINUTES** - February 29, 2000 Special Meeting
- March 14, 2000 Regular Meeting

ACTION: Commissioner Hardeman moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the minutes of the February 29, 2000 Special meeting and March 14, 2000 Regular meeting were adopted.

3. **EXECUTIVE**

A. Executive Director's Report:

Mr. Ben Kutnick, Acting Executive Director, reported that Executive Director Douglas Wong together with Paul Osmundson, Alex Lee and Peter Dailey are in Asia for sales and marketing visit to Port customers.

Mr. Kutnick reported that the westerly China Basin Ferry Landing would be ready for the Giants' opening day game on April 11th. The second float will be ready approximately 1-½ months after. The third temporary landing located adjacent to Pier 48 is complete and ready for the exhibition game on Friday, March 31. The Port's Engineering staff designed the system and Port Maintenance staff has made all the construction modifications to the float and ramp system for the third landing.

4. **CONSENT CALENDAR**

5. **MARITIME**

A. Approval of Landing Rights License L-12912 for Golden Gate Bridge, Highway and Transportation District at the China Basin Ballpark Ferry Terminal and Pier 48. (Resolution No. 00-26)

John Davey, Maritime Operations Manager, requested the Commission to approve the Landing Rights License for Golden Gate Bridge, Highway and Transportation District at the China Basin Ballpark Ferry Terminal. Mr. Davey mentioned that the standard landing rights license was amended with the City Risk Manager's approval.

ACTION: Commissioner Hardeman moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; Resolution No. 00-26 was adopted.

6. REAL ESTATE

A. Approval of Changes in Parking Rates for the Triangle Parking Lot bounded by Jefferson Street, Taylor Street and The Embarcadero in Fisherman's Wharf. (Resolution No. 00-27)

Kirk Bennett, Manager of Waterfront Development Projects, requested the Commission to approve the changes in parking rates for the Triangle Parking Lot. Mr. Bennett indicated that the Management Agreement, which has a month-to-month term, provides that the Manager is responsible to manage and supervise the day-to-day operations of the Triangle Parking Lot. The Port at all times continues to exercise control over the Triangle Parking Lot and its parking operations. The Management Agreement also established the parking rates for the Triangle Parking Lot and provides that the parking rates are subject to revision by resolution of the Port Commission. The parking rates established in the Management Agreement are $1.00 per ½ hour with maximum daily charge of $15.00. It also provides for two hours free parking with validation from Port tenants who are members of the Fisherman's Wharf Restaurant Association (FWRA).

Based upon a survey of comparable parking facilities in the Fisherman's Wharf area, it has been determined by Port staff that the parking rates for the Triangle Parking Lot should be adjusted. Port staff recommended that the parking rates for this lot be changed to $2.00 per ½ hour, with a maximum daily charge of $28.00. Three hours free parking with validation from a full service restaurants which is a member of the FWRA, and one hour free parking with validation from a crab stand which is a member of the FWRA.

Commissioner Lee expressed his concern that the proposed parking rate is too high that it will discourage tourists from visiting Fisherman's Wharf. Commissioner Lee inquired about the difference in the parking rates.

Mr. Bennett replied that staff focused on the facilities at Pier 39, Ghirardelli Square and Anchorage Shopping Center and the typical rate for ½ hour ranges from $4 to $5.50 for covered parking. The proposed parking rate is lower than some of the comparable facilities in the area.

Commissioner McWilliams inquired if there are parking arrangements for all Port tenants in the area. Mr. Bennett replied that the management agreement provides that if other Port tenants desire to participate in this validation program, they are given the same opportunity and that the FWRA requires that they join in the same terms as the existing members. Although the agreement allows for it, no other tenants have avail themselves of the opportunity.

Commissioner McCarthy indicated that the three-hour free parking with validation is an even trade since the parking rates are being raised. Traditionally, this lot has served

to take care of those restaurants on Port property. Other restaurants such as Scoma's, Castagnola's, Waterfront and Pier 23 have parking arrangements right next to their facility.

Commissioner Hardeman commented that the tenants are in support of this proposal and it's in their best interest. He added that the tenants expressed a concern that the Port hangs on to as many parking spaces in that area as possible.

Commissioner Brandon remarked that the restaurants need parking and the Port needs to support them. She concurred with Commissioner McCarthy's remarks that the 3-hour free parking validation is an even trade. The City had the foresight to run the F-Line to take tourists to the wharf.

ACTION: Commissioner McWilliams moved approval; Commissioner McCarthy seconded the motion. Four of the Commissioners were in favor; Commissioner Lee cast the dissenting vote. Resolution No. 00-27 was adopted.

7. FACILITIES & OPERATIONS

8. PLANNING & DEVELOPMENT

A. Approval of Amendments to Port Park Code Covering Certain Park and Public Access Areas Located on Port Property. (Resolution No. 00-28)

Diane Oshima requested the Commission to approve the amendments to the Port Park Code covering certain park and public access area located on Port property. With the imminent opening of the Pacific Bell Park, the Giants are concerned with regulating activities on the public promenade areas around the ballpark to protect health, safety and welfare. In particular, the Giants are concerned with the safety issues arising from people jumping into China Basin from the promenade areas around Pacific Bell Park and would like to enable the police to cite people engaging in that activity.

In addition, since adoption of the Park Code, certain other parks and public access areas have been identified and should be brought under the Park Code. With respect to jurisdiction of the Redevelopment Agency over South Beach Park, Rincon Park, and the future Mission Bay open spaces (collectively referred to as Agency Parks), the amendments to the Park Code make clear that for so long as the Redevelopment Agency leases an Agency Park from the Port Commission, the Redevelopment Agency is authorized to set rules and regulations for the Agency Park's subject to the prior approval of the Port's Executive Director, to issue permits for activities with the Agency Parks and to designate persons to perform all other functions for the Agency Parks which would be performed by the Port's Executive Director for any other Port property covered by the Port Park Code.

Upon approval, the Park Code will be sent to the Board of Supervisors for approval by Ordinance. Port staff prepared a graphical representation of the areas subject to the Park Code. The Port Commission resolution authorizes staff to modify and update the map as needed to reflect the correct location of the open spaces and parks subject to the Park Code. As part of this action, the Port Commission will also approve Permit

and Reservation Regulations governing the process and rules for the public to obtain permits from the Port for certain activities within Port open space and park areas.

ACTION: Commissioner McWilliams moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; Resolution No. 00-28 was adopted.

9. FINANCE & ADMINISTRATION

10. NEW BUSINESS / PUBLIC COMMENT

Nan Roth spoke about the "plaza" problem at Fisherman Wharf. She urged the Commission to interfere and reactivate the proposal of the original team to the project. Their proposal fully meets BCDC requirements as well as the Port's commitment in the concept agreement. She urged the Commission to reactivate their proposal as quickly as possible and carefully analyze its benefits against those of the most recently hired consultants.

Jack Bair, Giants, thanked the Commission and staff for their help in making the ballpark a reality and looked forward to working the Port.

Commissioner Hardeman requested that a committee be formed to look at the possibility of having better accommodations at the new Giants Pacific Bell Ballpark for visiting dignitaries to the Port of San Francisco. Commissioners Hardeman and McCarthy volunteered to serve on the committee. Commissioner Brandon directed staff to facilitate a meeting with the committee to find better accommodations at the new ballpark for visiting dignitaries to the Port.

11. EXECUTIVE SESSION

A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

ACTION: Commissioner Hardeman moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor.

At 4:33 p.m., the Commission withdrew to executive session to discuss the following:

B. CLOSED SESSION

(1) Discussion of the Executive Director's compensation for FY 2000/2001.

(2) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8. ***This session is closed to any non-City/Port representative.****

a. Property: Triangle Parking Lot (SWL 300/301)
Personal Negotiating: Port of San Francisco: Theresa Picon, Director of Real Estate
*Fisherman's Wharf Restaurant Association: Tim McDonnell

b. Property: USS Iowa berthing @ Pier 80
Person Negotiating: Port of San Francisco: Peter Dailey, Maritime Director
*USS Iowa: Secretary of the Navy

c. Property: Western Pacific Property @ 25th & Illinois
Person Negotiating: Port of San Francisco: Paul Osmundson, Director of Planning and Development.
*Municipal Railway: Kerstin Magary ***(Deferred to the next meeting)***

d. Property: Port Property located at Seawall Lot 337
Person Negotiating: Port of San Francisco: Paul Osmundson, Director of Planning & Development
*Municipal Railway: Kerstin Magary ***(Deferred to the next meeting)***

e. Property: Muni Metro East Kirkland Bus Yard
Person Negotiating:
Port of San Francisco: Douglas F. Wong, Executive Director
*Municipal Railway: Kerstin Magary ***(Deferred to the next meeting)***

12. RECONVENE IN OPEN SESSION

At 6:20 p.m., the Commission returned from executive session and convened in public session.

ACTION: Commissioner Hardeman moved approval to not disclose any information discussed in executive session. Commissioner McCarthy seconded the motion. All of the Commissioners were in favor.

13. ADJOURNMENT

The meeting was adjourned at 6:20 p.m.